

Speeches of d. 13- Foraker

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# PORTO RICO.

### SPEECH

OF

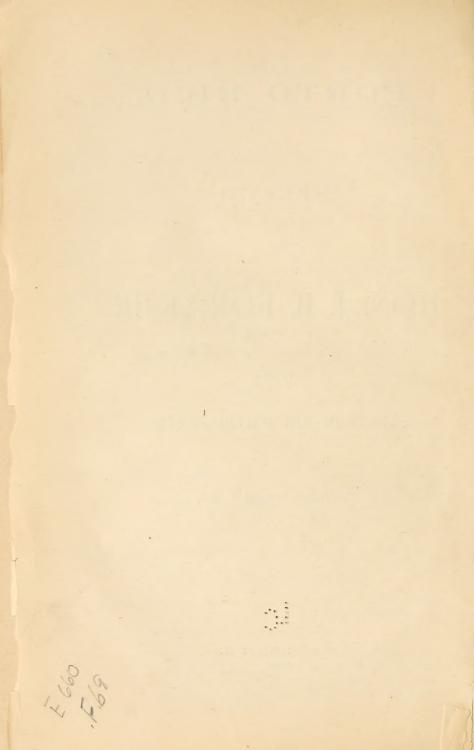
# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES,

THURSDAY, MARCH 8, 1900.

WASHINGTON. 1900.



#### SPEECH

OE

#### HON. J. B. FORAKER.

The Senate having under consideration the bill (H. R. 8245), and the Senate substitute "To provide a civil government and temporarily provide revenue for Porto Rico".

Mr. FORAKER said:

Mr. President: The Senator from Alabama [Mr. Pettus] commenced his remarks with a Scriptural quotation. The trouble with myfriend from Alabama seems to be that with which a good many men are afflicted—they know how to quote Scripture, but they do not always know how to make a correct application of it. The quotation was from Job: "When I looked for good, then evil came." I am not at all surprised that the Senator from Alabama was looking for good; and I am not at all surprised that the Senator from Alabama imagines that only evil has come. It will be my purpose, if I can, to satisfy the Senator from Alabama that he is mistaken, and that there is no case for the application of the Scriptural quotation he has made; that he not only looked for good,

but that good has in fact been proposed by this measure.

Now, upon what theory is it that the Senator from Alabama undertakes to make it appear that not good but only evil is proposed by this bill? His theory is the same as that upon which the bill has been criticised by other Senators in this Chamber and the same theory upon which it has been criticised by a good many newspapers throughout the country. The criticism is that this bill does not deal fairly in its propositions with the people of Puerto Rico; that we are dealing illiberally and ungenerously with them; and the Senator from Alabama, to be specific, points out that we are levying 15 per cent of the existing Dingley rates of tariff upon commerce between the United States and Puerto Rico and that we are requiring the people of Puerto Rico, out of their revenues, to pay the salaries of the officials of Puerto Rico, for the appointment of whom we provide, to administer their government; and also that we provide in this bill for the issuance of bonds by the insular government, for which we are providing, to reimburse the United States for moneys expended by the United States to restore the industrial condition of that island. Let me now address myself to all this, for there seems to be a good deal of misunderstanding about the character of this bill, not only throughout the country, but here in the Senate, where every Senator has had an opportunity to read every word and every line and to study and understand and appreciate it.

I wish to commence by saying that instead of this bill being illiberal and ungenerous in its provisions toward the people of Puerto Rico, it is the most liberal and generous bill in its provisions that has ever been proposed in Congress for any Territory of the United States since the beginning of our Government. It is

the very opposite of what is said about it. Now, before passing to the specific objections made by the Senator from Alabama, I call attention to the character of government, so far as its framework is concerned, that this bill provides for the island of Puerto Rico. You are all familiar with the Territorial governments that are now in operation. You know that for New Mexico, Arizona, and other Territories we have a governor, a judiciary, and we have also a legislative department. You are all aware that the governor and judiciary in these legislative governments are appointed by the President. The people are not consulted about them. They are not allowed to vote. They have no choice. The President appoints. When it comes to the selection of a legislative assembly, they elect and elect both houses. That is the present system. But it was not always so. Our first Territorial legislation was for Louisiana, and after that we had one legislative act after another establishing governments for Territories.

I have before me the act under which we took possession of the Territory of Louisiana and provided for that Territory its first government. That act was passed in 1803, on the 31st day of October, while Thomas Jefferson was President, and I have seen it stated in reliable and authentic histories that Thomas Jefferson and James Madison drew that act, one the author of the Declaration of Independence and the other a coframer of the Constitu-They certainly ought to be good authority as to what the power of Congress is to legislate for acquired territory and this act certainly ought to be a standard by which we have a right to measure the provisions we are now proposing for Puerto Rico, in order to determine whether we are dealing generously or illiber-

ally by that people.

I will not stop to read this, but I will ask that the act to which I refer may be incorporated in the RECORD as a part of my remarks. I stop here only to call attention to the fact that it was provided by this legislation that all military, civil, and judicial power should be vested for the government of that Territory in such person and persons as the President of the United States might select. The people were not consulted. There was no providing, by any consultation with them, for a governor, or a judiciary, or a legislative department, but all powers were placed in the hands of the President, to be exercised by such agencies as he might see fit to provide. I ask that the act may be incorporated in the RECORD. It is short. There are only two sections.

The PRESIDING OFFICER. The Senator from Ohio asks unanimous consent that the act to which he has referred may be incorporated in the RECORD as a part of his remarks. Is there objection? The Chair hears none,

The act referred to is as follows:

CHAPTER I.—An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris, on the 30th of April last, and for the temporary

government thereof.

Be it enacted by the Senate and House of Representatives of the United States Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the President of the United States, he, and he is hereby, authorized to take possession of and occupy the territory ceded by France to the United States by the treaty concluded at Paris, on the 30th day of April last, between the two nations; and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the Army and Navy of the United States and of the force authorized by an act passed the 3d day of March last, entitled "An act directing a detachment from the militia of the United States and for creeting certain arsenals." which he may deem necessary; and so much of the sum appropriated by the said act as may be necessary is hereby appropriated for the purpose of carrying this act into effect; to be applied

appropriated for the purpose of carrying this act into effect; to be applied under the direction of the President of the United States.

SEC. 2. And be it further enacted, That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct for maintaining and reacting the inhabitants of Louisiana in the free enjoyment of their and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

Approved, October 31, 1803.

The same legislation was enacted for Florida Mr. FORAKER. when later we came by acquisition from Spain to take possession of that territory; and it was in effect repeated when we annexed Hawaii.

Let me call attention, for I have taken the trouble to go over these various acts, to what was done in respect to other Territories. In the Northwest Territory, under the ordinance of 1787, preceding the adoption of the Constitution, it was provided that all governmental powers should be vested in and be exercised by the governor and judges, they to make laws until a general assembly should be selected. By the act of May 26, 1790, creating a civil government for the territory south of the Ohio River, the provisions of the ordinance of 1787 for the government of the territory

northwest of the river Ohio were adopted.

By the act of May 7, 1800, it was provided that the government for the Territory of Indiana should be the same as the government for the Northwest Territory. In the act of October 31, 1803, establishing a government for Louisiana, the provisions were as I have already recited. In a second act, providing a government for this same Territory, all power of government was lodged in a governor and secretary and thirteen councilors. Nobody was given a right to vote for any official. The governor and these thirteen councilors discharged all executive duties, did all legislation, and everything else, except only what was done by the judiciary, all the members of which department of government were appointed. Later, by the same act, a Territorial government was provided for the District of Louisiana. It was the northern part of the Louisiana purchase, and according to this act all the legislative, judicial, and executive powers were lodged in the officials already provided for the Territory of Indiana. They were to legislate for Louisiana, and Louisiana was not given any officials of its own, not even by appointment.

So I might go on and show that in the case of Missouri, in the ease of Arkansas, and in practically every case down to 1850, the whole power of government was placed by appointment in officials whom the President might see fit to select, and the people of the Territory were not given any right of election whatever. Since that time generally, almost without exception, the rule has prevailed to which I have adverted, and the people have been

allowed to elect their legislative branch of government.

Now, in Puerto Rico we have departed from this last rule to this extent: We have provided that the governor shall be appointed and the judiciary shall be appointed and the upper house of the legislature shall be appointed, but we have provided that the lower house shall be elected. So the difference between the latest and most liberal governments that we have established for the Territories is in the fact that we appoint instead of allowing the people to elect the upper house.

Mr. President, there is good reason for that. The people of

Puerto Rico differ radically from any people for whom we have heretofore legislated. They have had a different kind of experience, especially in the matter of government. They have had no experience such as to qualify them, according to the testimony adduced before our committee at the hearings had, for the great work of organizing a government with all its important bureaus and departments such as the people of Puerto Rico are in need of. So the committee thought when they came to frame this bill, although they were anxious to give to the people of that island all the participation in government they could bring their minds to judge it was safe to give them, that as to these important officials the power should be reserved to the President to appoint them, thinking that by appointment of the President, by and with the advice and consent of the Senate, men of capacity for the great work of organizing those bureaus and starting that government as nearly as possible in harmony with the spirit of our institutions might be secured. That is the only reason for the departure.

I take a great deal of pleasure in saying to the Senate that so far as I am aware no intelligent and appreciative man in Puerto Rico has taken any serious exception to that provision. There has no doubt been some dissent at times, but as the matter has come to be understood, as the great work to be done has been unfolded and they have come to understand and appreciate it, they all recognize the wisdom and the propriety of it, and the people of Puerto Rico are satisfied with it. They recognize that this is a far more liberal government than we ever gave to any Territory in the early days of the Republic, and under the circumstances quite as liberal a government as any that we have authorized in

later years.

Mr. President, the trouble with this bill, however according to the criticisms that have been made, is not on this point, but it is with respect to the provision in the bill proposing a tax on commerce between Puerto Rico and the United States and in the particulars specifically mentioned by the Senator from Alabama. Now let me point out briefly why I said a moment ago that the Senator from Alabama does not recognize good when it comes, but mistakes it for evil, particularly in this instance. I have before me the official report of General Davis, who has been military commander there for the last year. He is a very able, a very careful, a very conservative, and a very painstaking man, and his statements impressed the committee as absolutely reliable. We sent for him and had him come all the way from Puerto Rico to advise us as to the conditions existing in Puerto Rico in order that we might be able to legislate intelligently. He told us about the people, and he told us about their industrial conditions.

I need not stop here to speak of what he said about the people, except only to say that it was creditable to them in a high degree, yet coupled with the fact that perhaps 90 per cent, or at least 85 per cent, of them are unable to read or write and are not possessed of any property. That to which I wish to call attention—because it has direct reference to and is the basis of this provision—is what he said about the industrial conditions in that island. Let me read a minute. He says in his report of September 5, 1899:

Previous to the 8th of August-

Which was the date of the hurricane—

the industrial situation here was far from satisfactory. In previous communications by cable I have adverted to that, but certain bold facts as bearing

upon the business, production, and revenues of the island I now give, and in some respects repeat what has before been said.

The normal exports under Spain had been about 18,000,000 pesos for several years, and the taxes raised for the insular treasury and for Spain were about 5,000,000 pesos. The amount of municipal taxes would approximate another million, I suppose.

The exports for calendar year 1898, the year of the war, have not yet been ascertained, but the total must have been much less than formerly. There is as yet some lack of precise information as to the amounts raised by taxes for insular and municipal treasuries.

The exports during the current calendar year will show a great-falling off, while the present budget calls for an expenditure of about 3,000,000 pesos.

The exports will stand something like the following, in pesos:

| Coffee<br>Sugar<br>Tobacco | <br>4,500,000 |
|----------------------------|---------------|
|                            |               |

Total

For next year tobacco as an export may be eliminated—

I am calling attention to this in order that the industrial condition and the capacity of the people to pay taxes may be brought to the attention of the Senate-

For next year tobacco as an export may be eliminated, as it will be planted only in sufficient quantities to supply home consumption, but of stocks left there may be for export 500,000 pesos.

The most sanguine estimate for next year-

That is, this year-

is one-third of a normal crop of coffee for export, or, say, 18,000,000 pounds, which at present prices will net the producers about 1,500,000 pesos.

I will say in this connection that in a subsequent report made in December he said to the War Department that instead of onethird of a coffee crop there will not be this year more than 10 per cent of a crop; that the hurricane was more disastrous than he had imagined.

If the destroyed or damaged sugar mills are all restored, the export of

we have, then, a total possible export of 6,500,000 pesos, or a little more than one-third the normal.

It does not require a demonstration to show that the industrial conditions

It does not require a demonstration to show that the industrial conditions existing before the hurricane, bad as they were, are excellent by comparison with those resulting from the storm.

Formerly but two-thirds of the labor that sought employment at 30 cents, American money, per day could secure it, and now not one-third the labor is employed at any rate of pay. A hundred thousand or more individuals are being fed from the bounty of the American people. In some localities where the municipal government was feeble and the town councils did not command respect (and I am sorry to say these towns are not fewin number) no collections whatever of taxes can be made; some who could pay will not, because of their belief that the contributions will be squandered; others make this belief a pretext for nonpayment, and many others, who were well off, have no means whatever with which they can even support their families. no means whatever with which they can even support their families.

I will not detain the Senate to read it all, but Then he goes on. I ask consent to insert it all in the RECORD. It is but a page additional and describes the very disastrous conditions that obtain in that island.

The matter referred to is as follows:

The coffee lands suffered worst. These trees are planted on the hill and mountain slopes, and in many places the declivities are very abrupt. The gale tore up the trees, loosened the soil, and the deluge of water converted the earth into a semifluid.

Then followed landsides, and thousands of acres of coffee plantations slid down into the valleys; trees, soil, rocks, and every vestige of culture are piled up in the bottom of the valleys. In such cases there is no restoration possible, for where there were smiling groves are now only bald rocks, which

were uncovered by the avalanches.

Where the soil was not disturbed the most of the coffee trees were either uprooted, broken off, or stripped of foliage and the immature berries. The

larger trees of other varieties, which are habitually grown for shade to the coffee, were blown down, and their protection to the coffee trees is also gone; so where the trees are not wholly denuded the protection of the berries from the sun's heat is absent, and the green fruit is blighted and spoiled. It will take five years to reestablish these coffee vegas, and there will be necessarily years of want and industrial paralysis.

To say that this will deplete the revenues is unnecessary, for when purchasing power is wanting imports can not be made. It seems probable that

the say that this will deplete the revenues is uniteresting for the re-chasing power is wanting imports can not be made. It seems probable that the importations for the remainder of the year will not reach more than one-third of the estimate; therefore rigid economy will be necessary on every hand. But for the fact that I brought over from last fiscal year well on to a half-million dellaw of a belong would see he have of admissiparity the half million dollars of a balance, I would see no hope of administering the government.

And it would not be surprising if it should become necessary to borrow in order to pay the indispensably necessary expenses of the government. The present balance in the insular treasury is just about \$570,000, American cur-

The sugar industry has suffered much less than the others. The stigar industry has suffered much less than the others. Some cane has been uproofted and some has been buried, and many mills have been damaged or destroyed. The margin of profit at present prices to the sugar grower is small, but there is a margin of probably a half cent per pound to the manufacturer who has modern machinery; but the old "Jamaica train" mills, which are badly damaged, will probably never be reconstructed, and the growing cane for next year can not be ground on such estates unless their owners can negotiate large leans. Many will be unable to do this, so the prediction seems justified that much growing cane will next year be left to rot diction seems justified that much growing cane will next year be left to rot in the fields.

The municipal governments are many of them prostrate; the police can not be paid, the prisoners can not be fed, and the schools must be closed if not wholly supported from the insular treasury.

From every town and village I am appealed to for financial help—donations; loans are asked, implored even, and the alternative of chaos is predicted as the result of refusal. Proprietors beg for financial help and the homeless for rehabilitation of their dwellings.

Mr. FORAKER. In other words, the statement made by General Davis shows that the industrial conditions of that island are absolutely paralyzed and prostrated. He says in many municipalities no taxes can be gathered at all. He tells us that many people who have heretofore been accounted wealthy are unable to pay, have no money, and have no credit with which to command money. In other words, direct taxation upon the property in Puerto Rico, about which we have heard so much, is an impossible thing.

We were called upon to provide a civil government. You can not set up governmental machinery and maintain it in operation unless that government have revenue. It was estimated that the revenues essential to the support of this government would be not less than \$3,000,000 annually. Where were we to get the \$3,000,000 with which to support this government? Gentlemen tell us. "You can get it by taxation." We answer, there is the testimony that was before us, and to raise money for the support of that government by taxation was out of the question. You could not raise it

in that way. They did not have it.

Here, then, were a people who were already in a state of bankruptcy practically before the hurricane came on August 8, 1899. By the disastrous effects of that hurricane they were absolutely ruined, and they would have been foreclosed and sold out had not the strong hand of this Government stayed the creditor by saying he should not enforce his claim, first for a year, and later it extended the time for six months additional. Now they will have to extend it again or else almost every plantation and every farm and every home in Puerto Rico will be sold at auction, for the record shows that there is a recorded mortgage debt upon the real property of that little island exceeding \$26,000,000.

Mr. TILLMAN. Mr. President— Mr. FORAKER. If the Senator will allow me a moment, then I will gladly yield to him. It is said we ought to raise this money

by direct taxation. Let me suggest what that means. Take the situation as it exists—their impoverished and bankrupt condition, their inability to pay anything. How much do you think the rate of taxation would have to be to raise \$3,000,000 for insular purposes, to say nothing about municipal government? The total valuation at the highest figures I recall as having been given amounts to about \$130,000,000 for all the property in that island. Generally in the Northern States here I think we assess property for taxation at about two-thirds of its market value. That is called its full, fair value for taxation. A hundred millions of valuation would therefore be the basis on which you would have to raise by direct taxation \$3,000,000. That is what the insular government alone needs.

In addition to that we would have to raise, General Davis says at least a million dollars for municipal government. That would mean a tax rate of 4 per cent on every dollar's worth of property belonging to the people of Puerto Rico and situated in that island. When we were called upon to provide revenue, we said, in view of all this, the people of Puerto Rico in their devastated condition can not stand such a burden, and we will not impose it if we can find any way whereby we can exempt them from it and at the same time give them a revenue, and that is how and why we proposed these provisions. Now I will yield to the Senator

from South Carolina.

Mr. TILLMAN. I was just thinking that the subject which the Senator from Ohio is discussing is a very important one, and one that vitally interests every Senator who has to vote on this measure. There are so few Senators here that I was going to call attention to the fact that there is no quorum present.

Mr. FORAKER. I will be obliged to the Senator if he will

do so

The PRESIDING OFFICER. The Senator from South Carolina suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Allen, Foraker, McBride, Scott. Allison, McComas, McCumber, Bacon, Gallinger, Shoup, Baker, McMillan. Spooner, Hanna, Martin, Stewart. Bard, Burrows, Harris. Nelson. Sullivan, Teller, Tillman, Butler Hawley Perkins, Chandler, Pettus, Platt, Conn. Platt, N. Y. Pritchard, Heitfeld, Cockrell, Kean, Turner, Warren, Wellington, Daniel, Kyle. Davis, Lindsay, Deboe, Lodge, Rawlins. Wetmore.

The PRESIDENT pro tempore. Forty-eight Senators have responded to the roll call. There is a quorum present. The Cal-

endar under Rule VIII is in order.

Mr. FORAKER. Mr. President, I was addressing the Senate, with another occupant in the chair, when the Senator from South Carolina interrupted and raised the question of the presence of a quorum.

The PRESIDENT pro tempore. The Chair was not informed

of that fact.

Mr. FORAKER. I am very much obliged to the Senator from South Carolina for making that suggestion, for what I was talking about is a matter that I want all Senators to hear. In view

of the fact that there are some Senators in the Chamber now who were not present when I was talking a moment ago, I want briefly to recapitulate before I proceed. I was talking about this bill to provide a civil government for Puerto Rico, and I was talking in answer to the Senator from Alabama [Mr. Pettus]. I was answering his objection to the bill that we provide a tariff to the amount of 15 per cent of the existing Dingley rates upon products imported from there into the United States and from here into Puerto Rico, a provision with which Senators and the whole country are familiar, and I was pointing out why in this bill we have made the character of provisions in regard to revenue that we have.

In that connection, Mr. President, I had just called attention to the report of Brigadier-General Davis, who for more than a year past has been the military governor of Puerto Rico. I called attention to the fact with which most Senators are familiar, I think, that General Davis is a very trustworthy, reliable, safe You can depend upon the statements he makes. He has been on the ground; he is specially familiar with the whole subject; and he tells us in his report of last September to the War Department that the industrial conditions of that island are absolutely prostrated. He tells us that they were in bad condition before the hurricane, and that they are in a worse condition since the hurricane. Coffee, which is the chief product of the island, was almost, as an industry, eliminated, the coffee plantations being destroyed.

Mr. LINDSAY. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Kentucky?

Mr. FORAKER. Certainly. Mr. LINDSAY. If the Senator will yield for a question, I ask him whether Brigadier-General Davis does not, upon that state of facts, recommend that all tariff duties between Puerto Rico and the United States be removed?

Mr. FORAKER. Yes, he does; and I will come to that if the Senator will content himself for a moment. I will speak about it

now.

Mr. President, it does not follow because General Davis, while giving us facts that we can all accept, should be followed when he gives us simply his opinion as to what should be done. We are here to legislate not only with Puerto Rico in view, but with the interests of the whole of the United States in view; with the interests of other possessions than Puerto Rico in view, and with our obligations to other possessions of the United States than

Puerto Rico in view.

Now, I will tell you why the committee have provided as they have in the matter of revenue; I want to show that it is a good provision and not a bad one, as the Senator from Alabama has seemed to think; that it is in the interest of the Puerto Ricans and not contrary to their interests. It was conceived in mercy to the Puerto Ricans, and it stands in the matter of generosity toward the people for whom we are legislating absolutely without a precedent in all the Territorial legislation of this Government from the beginning of it until now.

What is the condition as General Davis has depicted it? I have asked that it all be printed in the RECORD. Let me state here, therefore, briefly that according to General Davis in many municipalities in Puerto Rico you can not raise a dollar by a direct tax on property. Why? Simply because, as he points out, the property of the island is already burdened with debts that are evidenced by recorded mortgages to the amount of more than \$26,000,000\$, and but for the hand of this Government staying the right of the creditor to foreclose the whole island would have been precipitated into bankruptcy, and all that property would have been sold under foreclosure long ago. To-day the creditor is compelled by the action of this Government to wait. The first order was that he should wait a year. The time has been extended six months additional. It will be extended again, in the hope that sometime in the course of human events the Congress of the United States will get done discussing constitutional questions and go to the relief of a starving people.

Mr. President, General Davis shows us that the people are in such a situation that to raise revenue by way of taxation on property is an impossibility. How much revenue would have to be raised in that way? Has any Senator stopped to think? The committee did. It is an easy matter for those who do not stop to think, as the committee who investigated this subject were compelled to think, to criticise this measure. But have you who are in opposition stopped to think that to raise \$1,000,000 of revenue in \$3,000,000 of revenuent, the lowest estimate any-body has made, and a million dollars additional for municipalities,

would require a rate of taxation not less than 4 per cent?

Are people who to day can not buy bread to be subjected to that kind of a burden? We are familiar with what direct taxation means in the United States. That is the system we employ throughout the States and Territories to raise revenue for our local government. They are not familiar with the system there. It would take time, in addition to its burdensome feature, to put it into

operation and to get a return.

So, it was, Mr. President, when we found the Puerto Ricans in that situation, we stopped to consider whether we could not in mercy toward those people, not in a spirit of illiberality, not lacking generosity, but practicing the most gracious generosity, find some way whereby we could exempt them from this ruinous burden and raise revenues for their government in some other manner

that would rest more lightly upon them.

In that endeavor we conceived the notion that we would do for Puerto Rico, and we have undertaken to do by the provisions of this bill, what has never before been done for the people of any Territory in the United States, something nobody thought to do for Louisiana, nobody thought to do for Ilorida, nobody thought to do for any Western Territory or Southern Territory. Nearly all the States here represented, all except thirteen, have been in a Territorial form of government. Not one of them ever had done for it what we are proposing to do for Puerto Rico. We extend the internal-tax laws of the United States into every Territory, and the people in every Territory are to-day paying the taxes prescribed by that law. But where, when they have been collected, are the taxes taken to? To Washington, to the National Treasury, for the benefit of the whole nation, the whole common country. Never in a single instance has there been other provision than that made.

But, Mr. President, in this instance we say to the people of Puerto Rico when they pay the internal revenue taxes, paying precisely, and only precisely, the same as are paid elsewhere in

the United States, they shall have every dollar of benefit arising therefrom; that instead of being brought to Washington and put into the National Treasury for the benefit of the National Government, they shall go into the insular treasury for the benefit of

the people of Puerto Rico. That is not all.

We have provided in this bill that the tariff laws of the United States shall be extended to Puerto Rico, and that full rates of duty shall be collected on all importations into Puerto Rico from countries other than the United States. Now, that has been the law in the case of every Territory. When Florida and Louisiana and Washington and Oregon were Territories, all goods imported into their ports of entry paid full tariff duties, and the collections so made were brought to Washington and put into the National Treasury for the benefit of the whole country. But in this case we not only say the people of Puerto Rico shall have the internalrevenue taxes, but that they shall also have all these tariff taxes.

Now, Mr. President, we made a careful estimate. I am speaking unexpectedly to-day, and unfortunately I have not with me some papers I should have. Among other papers, I have not the estimate which we made of what would be derived from these sources. I can not now in the absence of that paper give you the details of it, but I remember well the aggregate result from internalrevenue taxation and from import duties upon goods from foreign countries. We estimated that there would be derived, all

told, about \$2,000,000.

Mr. CHILTON. How much from each source? Do you re-

member?

Mr. FORAKER. No; I do not remember, but I can give it, I think. It did not give it by countries either; it gave it simply in the aggregate. That is my recollection, but I can show to the Senator from that paper the amount we estimated would come from countries other than the United States, and the amount that would come from the United States.

Mr. CHILTON. But I mean how much from internal revenue

and how much from import duties?

Mr. FORAKER. Oh, I think it was about a million four hundred thousand dollars of tariff and about \$600,000 of internal revenue. That is my recollection. I reserve the right to correct that if I am in error about it. But the most conservative estimate made as to expenditures necessary to conduct that government for this year, now in progress, would be about \$3,000,000. What I have mentioned raised about \$2,000,000. Where were we to get the other million?

Mr. LINDSAY. I ask the Senator if he can inform me how much it cost to administer the government of Puerto Rico during

the last year of Spanish domination?

Mr. FORAKER. No; I can not recall now, but that is all shown in the reports. I think General Davis gave it in his statement before our committee.

Mr. LINDSAY. I think it amounts to not more than one-third

as much as you estimate this year for expenses.

Mr. FORAKER. Yes, sir; I will say to the Senator that it amounted to over \$4,000,000. I remember that.

Mr. SPOONER. And it was not a very good government, either.

Mr. FORAKER. It was a miserable government at that. Mr. GALLINGER. If the Senator will permit me, he will remember that we are providing about a million dollars to build schoolhouses—

Mr. FORAKER. I am just coming to that.

Mr. GALLINGER. And we are providing a million dollars to build some roads for those people, which they never have had.

Mr. FORAKER. The Spaniards exacted from the Puerto Ricans, as I remember it, over \$1,000,000 per annum, and they spent it as only Spaniards know how to spend money. They did not spend it for schoolhouses. We have done more for education in that island since we have taken possession, hampered as we have been, than Spain did for education in three centuries of time, so far as inaugurating any general system is concerned.

Mr. TILLMAN. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Certainly.

Mr. TILLMAN. Will the Senator tell us how much of that

\$4,000,000 was sent to Spain as tribute from the island?

Mr. FORAKER. I will gather all that and with pleasure answer any such question; but, as I said a moment ago, I did not expect to speak to-day.

Mr. TILLMAN. I am trying to get information. I did not

seek to interrupt the Senator for any other purpose.

Mr. FORAKER. At any time I will be glad to be interrupted. I have no speech to make. I have no oration to deliver. I am here in the discharge of a duty, simply seeking to give to Senators information, and I want to give it in the most direct and most satisfactory way I can. I am glad to have all kinds of questions asked, and I will give the fullest information I can.

Mr. SCOTT. Mr. President-

Mr. FORAKER. I should like to proceed with the argument, but I yield to the Senator from West Virginia.

Mr. SCOTT. I merely rose to ask the Senator if the bill provides

for different courts?

Mr. FORAKER. Certainly, it provides for courts. As I have already said (the Senator, I suppose, was out of the Chamber at the time), the bill provides a complete civil government, republican in form. We have an executive, a judicial, and a legislative department, and, according to this estimate of \$3,000,000, we estimated in this way \$1,000,000 to defray the expenses of that government. That means the executive department, the judicial department, and the legislative department, the management of jails, and the management of almshouses. Then we estimate, upon the recommendation of General Davis, for the expenditure of another million dollars for public improvements.

Why, Mr. President the General told us and other witnesses the same that in the island of Puerto Rico they have no roads except two or three military roads, one from San Juan to Ponce, and short spurs to that; and that throughout the island except only as to these roads to which I refer, they have no highways, nothing but bridle paths practically, which they must use in going from the interior out to the seacoast with their products. The prosperity of that island requires, if we are to restore it, that there shall be large expenditures made in the near future, and the best interests of the people require that labor shall be furnished in that way to those who are without it now. We estimate that

a million dollars of this \$3,000,000 should be expended in that way, for roads, bridges, etc.

Mr. SULLIVAN. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Mississippi?

Mr. FORAKER. Certainly. Mr. SULLIVAN. I should like to ask one question. How can it be for the benefit of the Puerto Ricans to lay a tax upon them, either an internal-revenue tax or this duty upon products shipped there, if the money is to be returned to them, if when returned it is just the amount taken from them less the expense of the collection? How can that benefit them?

Mr. FORAKER. Mr. President, the committee may be in error about it, but I can tell the Senator the view we take of that, and I will tell him, as I proceed, in connection with what I was just about to say. I want to finish what I was saying when I was

interrupted before I proceed to that.

We found, Mr. President, that to raise this revenue of \$4,000,000 necessary for the insular and municipal governments \$4,000,000 would have to be raised by direct taxation or in some other manner, and that to raise it we would have to levy taxes at the rate of 4 per cent, which meant ruin, bankruptcy, and disaster to all who had property in the island. So we cast about to see if we could not find an easier way to raise it.

Mr. DAVIS. Mr. President-

Mr. FORAKER. In just one moment. We sought to raise it by internal taxes, which is largely an indirect method of taxation, and by the imposition of tariff duties for their benefit, or rather to turn them over to them instead of turning them over to the United States Treasury, which is another indirect and easy way for them to pay them. I was just proceeding to say that we had still a deficiency of at least \$1,000,000, and we cast about to determine how that should be raised, and we concluded that we could raise it by imposing a duty of 25 per cent of the Dingley rates upon the commerce between Puerto Rico and the United States. The House bill cut it down to 15 per cent. In my opinion it ought to have remained at 25 per cent. That is very light, not at all a burdensome duty, and the Puerto Ricans did not, except on senti-mental grounds, make any complaint against it. They recognized that they could at once have prosperity in that way.

Now, to answer the Senator's question, the advantage to the people of Puerto Rico in raising that million dollars in that way instead of by a direct tax upon their property was that the men who were able to trade back and forth, particularly the people who pay here at the port of New York and other ports of this country, the people who pay in the United States, for that goes and makes up a part of it as well as what is paid in Puerto Rico, are able to pay it as a part of their business transactions, far more so than the people of Puerto Rico who own the property there upon which it would have rested as a burden if it were not raised

in this indirect way.

Now, I say we may be in error about that, but it does not seem to me so, and it did not seem so to the committee. Now I shall

be glad to hear the Senator from Minnesota.

Mr. DAVIS. For how many years is this \$4,000,000 to be raised? Mr. FORAKER. The 15 per cent is to continue until the 1st of March, 1902.

Mr. DAVIS. And you estimate \$1,000,000 for schools and \$1,000,-000 for roads?

Mr. FORAKER. Yes.

Mr. DAVIS. Is it necessary to establish all those schools and build all those roads within two years? Why can not the time be

properly extended?

Mr. FORAKER. General Davis's testimony and the testimony of others was to the effect that there ought to be at least \$1,000,000 expended on each of these accounts for quite a number of years to come. That \$1,000,000 would make but very little of the required amount of roads and other public improvements that are needed in that island.

Mr. DAVIS. I should like to ask the Senator-

Mr. HOAR. The Senator from Minnesota is not quite well heard on this side of the Chamber. I think Senators have a right

to hear his question.

Mr. DAVIS. I should like to ask the Senator from Ohio this question. He admits that this method of raising revenue and handing it back to a political subdivision, whatever you call it, is unprecedented. It has not been done to Hawaii. It never was done to any Territory. The theory and practice have always been for the General Government itself to pay all of the necessary expenses of the Territory. Why not raise the revenue as to Puerto Rico the same as it is raised everywhere, cover it into the United States Treasury, and, as heretofore, if an appropriation is necessary for schools, for roads, or for administration, or to alleviate distress, do it by means of a direct appropriation? What is the reason, why is it, except in this matter of incidental distress, that this tariff rate, anomalous, unheard of, unprecedented, and temporary in its very conception, shall be applied to Puerto Rico, when the other day, in another place, \$2,000,000 was appropriated from the General Treasury that came in under the tariff relations of Puerto Rico with the United States.

Mr. FORAKER. Mr. President, answering the Senator from Minnesota, there has never been an instance that I know of where it has been the practice to collect revenues in a Territory, turn them into the United States Treasury, and then appropriate them out again for the benefit of the Territory, beyond the mere payment of the salaries of the officials appointed by the United States. The United States Government has never undertaken to support a local government in either State or Territory, and would not be allowed to do it if it did make such an effort. The case, therefore, of Puerto Rico is anomalous, without precedent, as the Senator says, but it is without precedent not only as to the legislation which we propose, but as to the conditions that exist there and the requirements of that case. If Puerto Rico is to have schools, if Puerto Rico is to have roads, if Puerto Rico is to have the other improvements that we speak of, Congress must not only authorize the people of Puerto Rico by taxation to raise the needed revenue, but we must authorize a system of taxation that the people of Puerto Rico can conform to and administer successfully.

Mr. DAVIS. Mr. President—

Mr. FORAKER. I say to the Senator from Minnesota that it is an utter impossibility to raise money on the island by the usual method of direct taxation on the property wherewith to conduct a government and pay its expenses.

Mr. DAVIS. Then I say, those things being merely temporary,

the proper and regular thing to do is to make appropriations from

the general revenues.

Now, another word. It has been proposed, and I think the measure is before this body, to appropriate \$2,000,000 to Puerto Rico from the revenues coming to it in the present conditions. I want to know, and I ask the Senator most persuasively if I can, what effect it is going to have on a people of that kind to donate to them, in the first place, \$2,000,000, and then let them understand that by a precedent of this character, year after year, they are to receive, in the status of mendicants, as the recipients of alms, revenue collected in this way; that it is to be returned to them? I would rather, if the Senator will allow me, apply to Puerto Rico the system we apply to Alaska and what has been the general uniform practice of the Government from the beginning, not turning revenue into any place to meet a temporary exigency of distress even, but if necessary to make the proper appropriations for such time as may be necessary.

Mr. FORAKER. I am gratified to have the views of the Senator from Minnesota, but let me say, in answer to what the Senator from Minnesota has said, that if we were to apply to Puerto Rico the calm and dispassionate system heretofore pursued, to use his language, by the United States Government, the people of Puerto Rico would be nearly all starved to death before this Government

would have done anything for them.

This, Mr. President is a great emergency. The Senator can not answer what I am saying in support of these provisions by pointing to the appropriation that has been made by the House in the bill pending in the Senate.

Mr. DAVIS. I say make an appropriation, and others from

time to time, as may be necessary.

Mr. FORAKER. Yes; and the Senator would vote for it, and other Senators would not vote for it. But the committee conceived it was their duty to the people of Puerto Rico to provide for that people a government and make it self-supporting, and start them on the way of taking care of themselves. I do not believe in appropriating money out of the Treasury for the benefit of people except only in cases of great emergency, and then I am willing to do it; but I am opposed to a system of almsgiving to be continued indefinitely. I think it better to adopt a self-supporting system .

Now, Mr. President, it is premature to talk about appropriating \$2,000,000; but what General Davis says in his report is that they must have at least \$10,000,000 to relieve their general condition-\$3,000,000 for the government on the accounts I have mentioned, and the other \$7,000,000 on other accounts that he specifies and which we have enabled them to raise by authorizing them to provide a system of taxation and to issue bonds in anticipation of

revenues from taxation and otherwise.

Mr. President, what I wanted to point out here is that this bill is not unjust and illiberal and ungenerous in its provisions for the Puerto Ricans, as charged by the Senator from Alabama [Mr. PETTUS], but that, on the contrary, it is the very opposite of all that; that we are doing for them what never has been done by this Government for any other territory since the beginning of the Government; that we are, as the Senator from Minnesota has only emphasized, taking from them only the same internal-revenue taxes we collect eisewhere and then covering all back to them instead of putting those taxes into the National Treasury; taking from them only the same tariff taxes that we are taking from all, and, instead of putting those tariff duties into the National Treasury, turning them all into the treasury of the island of Puerto

Rico for their benefit.

Never, Mr. President, in the history of this Government has there been such unexampled generosity and liberality in legislating for the people of any Territory. I say all this in answer to the criticism that this bill is unjust to Puerto Rico. Now, whether it is good policy for us to do this is a matter for the Senate to I have undertaken to show that it is: that it is one of the necessities of the case; that we should be liberal and generous to the extent I have indicated and that this bill provides, and I hope the Senate will agree with us.

Mr. DAVIS. Will the Senator allow me?

Mr. FORAKER. Certainly.

Mr. DAVIS. Where is the justice of imposing the Dingley Act upon Puerto Rico as to all the rest of the world, and then turning around and imposing upon the same island, the same people, 15 per cent of that act on imports to that island from the United States?

Mr. FORAKER. Well, Mr. President, so far as the first part of the Senator's question is concerned. Where is the justice of imposing upon the people of the United States the Dingley Act-

Mr. DAVIS. My question is not separable.

Mr. FORAKER. Ah, but I will separate it if I see fit.

Mr. DAVIS. You can not.

Mr. DAVIS. You can not.

TOPAKER. I can. The Senator asks me where is the justice of imposing upon them the Dingley Act and then imposing upon the trade with the United States 15 per cent of the Dingley Act additional? I say to him that as to his first proposition I can answer it by saying that his question implies that there is some injustice in imposing the Dingley rates. Certainly the Senator will agree that there is not.

Mr. DAVIS. No-

Mr. FORAKER. He voted for the Dingley bill.

Mr. DAVIS. No; the-

Mr. FORAKER. It was a necessity of our conditions, and under it the country has been brought to a degree of prosperity it has never before realized in all its history.

Mr. DAVIS. No; Mr. President, as old a protectionist as I am, I am not to be put in a false position by the Senator from Ohio.

Mr. FORAKER. The Senator will allow me to say that I do not want to put him in a false position.

Mr. DAVIS. What I want to know is why and where the justice is, the Dingley Act being conceded to be just all round if applied to all the people, of putting upon any political community

in this land 15 per cent more? Mr. FORAKER. Mr. President, the 15 per cent to which the Senator alludes has no connection with the Dingley rates that are put upon importations into Puerto Rico. That is what I have

been trying to show to the Senator from Alabama.

Mr. SCOTT. Mr. President—

Mr. FORAKER. I do not want to put any Senator in a false position, and no Senator will be allowed to put me in a false position if I can help it. I know the Senator from Minnesota does not want to put me in a false position, and I do not mean that for him. I mean I would only do just what he was seeking to do.

Mr. SCOTT. May I ask the Senator from Ohio a question?

Mr. FORAKER. With pleasure.

Mr. SCOTT. Is it not the general report that the products of Puerto Rico are now held by so-called trusts, so that the 15 per cent duty that you are now proposing to levy upon the imports of Puerto Rico into this country would largely fall upon those

trusts and not upon the people proper of Puerto Rico?

Mr. FORAKER. That is according to my information; I think that is according to the information of all the members of our committee, and I think that is according to common report. As to what the facts are I have no personal knowledge, but I do understand-and it has been stated over and over again, and it has not been denied, so far as I have heard, by anybody—that practically all the tobacco and all the sugar now ready for export from the island of Puerto Rico is owned by the tobacco and the sugar trusts. So the imposition of the duty of 15 per cent upon sugar and tobacco in the island is not, as it has been charged in the newspapers-and I would not speak of it, I would think it beneath the dignity of the Senate to refer to it, if the Senator had not called my attention to it-is not an imposition on the people of Puerto Rico proper, but an imposition of the tax upon those who own the sugar and tobacco and who must pay, for the benefit of the people of Puerto Rico, to whom we give it back as soon as it has been paid; but I do not put it on that ground.

Mr. BACON. Will the Senator permit an inquiry in that con-

nection?

Mr. FORAKER. Certainly.

Mr. BACON. I understand from the statement of the Senator, which he says is in accord with general information, that the producers in Puerto Rico have already been paid for those products. Am I correct in that?

Mr. FORAKER. I so understand—I do not pretend to have any personal knowledge about it, and the Senator knows as much about it as I do-I understand that the tobacco and the sugar in the island have been bought up by the trusts very largely.

Mr. BACON. If that is the case, and the producers have already received the money for their products, outside of the tornado over there, what causes the great distress in Puerto Rico, if it is not due to the fact that the people can not sell their products?

Mr. FORAKER. It is because the people have been having to live meanwhile. It is not a rich country; their surplus for export is but small for a million people; and they have long ago lived up all the surplus they had. They have been visited not only by a tornado, but by war. Our armies have been marching over their soil and have interrupted their business and vocations and pursuits; and, as a result of it all, they are in a distressed condition. according to General Davis, to whom I have referred. I have not visited the island: but no man questions the truthfulness of the statement that has been made to us, and which I have had printed in the RECORD.

We all do know that no matter how the distress has come about this possession, of which we are justly so proud, because of the character of the people, the location of the island, the ambition of the people, which has been to make themselves agreeable to us and to make themselves an important part of this country-it is known to all of us, I say, that that people are in distress, in poverty, in squalor, hundreds of thousands of them; and if we are to relieve that people, if we are to legislate so as to give them prosperity, no one thing we can do in giving them civil government is so important to them as to exempt their property from all direct taxation, and necessarily, in the absence of the provisions we have supplied to conduct their government, to set into operation a school system and a system of public improvements such as they need.

Mr. HOAR. Mr. President, I should like at some time during the Senator's argument to state a constitutional question which has occurred to me for his answer. I do not know whether it is a convenient time to do so now.

Mr. FORAKER. All seasons are summer when the Senator

from Massachusetts has a question to ask.

Mr. HOAR. Very well, Mr. President. I wish to say, if I may be allowed, that whatever may be or has been my opinion, and continues to be, about the desirableness of the Government of the United States governing dependencies not expected to be hereafter a part of the United States, I conceive it my duty as a Senator, when that is done, to help in my humble capacity in every way to have the best thing done for those people and for the United States; and with a desire to have the difficulty solved, if it can be, I put this question to the Senator: The Constitution of the United States prohibits a duty upon exports from any State. I had always supposed that that was the provision which prevented, under the interstate-commerce power, the imposition of taxation upon an export from New York to Ohio, or to New Mexico, or to the Indian Territory, or to the District of Columbia; and whether these new acquisitions are Territories, or are to be come States, or are to be dependencies, it is equally a duty upon exports to tax anything shipped from Ohio or New York to Puerto Rico. Now, if that be true, I can not see how it is any the less a duty on exports whether you collect the duty at one end of the route or the other-whether you collect it in a port of the island or collect it in the port of the United States from which it starts. It is collected by the United States, and it is equally a duty on something carried out of a State. I should like to understand what is the answer in the Senator's mind to that proposition.

Mr. FORAKER. Mr. President, my answer to that proposition is the same that has been given a thousand times over and over again, in one form and another, since this debate with respect to the power of Congress to legislate for these dependencies commenced; and that is, that the constitutional prohibition to which he refers has no application whatever to the government of Puerto Rico or to the action of Congress in governing Puerto Rico.

Mr. HOAR. But I am not disputing-

Mr. FORAKER. Mr. President, let me say to the Senator-Mr. HOAR. I will continue for one minute, if the Senator will allow me. I will concede for the purposes of this discussion what so many gentlemen believe, and I suppose the Senator from Ohio believes, that there is no limit whatever in the Constitution in governing Puerto Rico; but is it not just as much an export from Boston to send the product from there to Puerto Rico, which is not under the Constitution, as it would be to send it to Ohio, which is under the Constitution, or to send it to Great Britain, which is not under the Constitution?

Mr. FORAKER. If the Senator will allow me-

Mr. HOAR. Just one sentence more. That being so, could you, under your claim, tax these things in the port of New York on their way to Puerto Rico; and, if you can not under that constitutional stitutional provision, can you tax them at the other end of the route before they get off the ship?

Mr. FORAKER. Mr. President, the persistency with which

the Senator presses his contention only illustrates what I intended to say a little bit later in the remarks I have in mind to make at this time. His persistency simply shows, as I was going to say presently—and I will say it now—that this question has passed beyond the law-book stage. In other words, Mr. President, what I mean by that is this—

Mr. HOAR. That is the answer.

Mr. FORAKER. No; it is not the answer. I gave the Senator the answer a moment ago; and the Senator knows that this was not intended as an answer. I say that the persistence of the Senator, and now his repeated persistence here in coming in with an interruption, which is an unjust and unfair one, in the way of comment on what I said—and the Senator will acknowledge it—shows, Mr. President, that with respect to this debate, which has been going on now for two years practically, there are two opposing views. I might stand here and quote from decisions of the Supreme Court of the United States from now until the time when the last Puerto Rican has starved to death without being able to make any impression whatever on the Senator from Massachusetts or other Senators who entertain views in opposition to the views I entertain; and they might quote in the same way and with the same absence of effect as to me.

I believe, Mr. President, that these acquisitions are mere dependencies of the United States, and that Congress has not only an inherent but a constitutional power to legislate, and also power under the treaty to govern these particular acquisitions as Congress may see fit, without regard to any of the restraints or limitations to which the Senator refers, except only qualified as I qualified that remark a few days ago when speaking on this same subject. That is my opinion. Other Senators entertain the opposite

opinion.

It is idle to quote law books any longer hour after hour, day after day, and to consume time with such quotations without any

effect.

I am referring now to other Senators than myself. [Laughter.] But. Mr. President, what I refer to now is this: We have here a controversy, lines have been drawn with respect to it, and men have taken their positions. It is idle to debate longer. There will never be a settlement of that question except only by the Supreme Court of the United States. When that tribunal speaks all will bow in humble and respectful submission, and until then we

will have our respective convictions.

Therefore, I do not propose in this debate to bring here any law books. I simply plant myself on the general proposition and point to the authorities, with which Senators are all familiar, in support of it. There is where I shall stand until the Supreme Court tells me I am in error, if it ever is to so tell me, and I have no idea it ever will. I have confidence in my opinion; and therefore. Mr. President, I rejoice in the fact that the provisions of this bill are of such a character as to make it inevitable that the Supreme Court of the United States will pass upon that question.

Now let me say to the Senator from Minnesota [Mr. Davis] and to the Senator from Massachusetts [Mr. Hoar]. I do not know precisely in detail what their views are; I think they know what mine are; but whatever they may be, it is of the highest importance to everybody, to Democrats and Republicans alike, to the whole American people in common, that we know what is the right of this controversy; that we know at the earliest opportunity

what is the power of Congress to legislate for these dependencies. and whether or not we can levy what the Senator from Massachusetts calls an export duty, but which, because of the way it is levied, I say is not such a duty within the meaning of the Constitution, and that we may have every other question settled. fore I rejoice that we have found a way to raise revenue for the people of that island without burdening them by direct taxation on their property, and at the same time raise questions that will bring all this controversy before the court, where we will ultimately get a settlement of it.

Mr. President, let me dwell here for a moment, as Senators have precipitated this discussion—I spoke briefly about this the other day-let me advert to it again, and say that we can not sit here and intelligently legislate if we do not take a more comprehensive view of the field of legislation than that which comprehends only Puerto Rico. We have got to take into consideration, as I said a while ago, our own conditions at home, and we have got to take into consideration, as bearing upon this general subject of legislation, the Philippines, as well as Puerto Rico.

Puerto Rico and the Philippines came to us by the same instrument. They stand in precisely the same legal relation to this Government, the one as the other does. What we can do or can

not do as to the one is true as to the other.

Mr. President, is it true that we can not levy a tariff duty upon goods going into Puerto Rico from the United States? Is it true that we can not impose a tariff duty upon goods coming into the United States from Puerto Rico? If so, we can not find it out too soon. I say it is not true. I say it is within the power of Congress Other Senators say the reverse. Let us hear what the Supreme Court of the United States will say on the subject; and when the Supreme Court has spoken, then we will know how to legislate, and not until then will we know how to legislate.

Now, consider the importance of that. It was only very recently, within a few weeks, announced, and everywhere accepted as one of the greatest diplomatic triumphs standing to the credit of our Government in recent years, that we had demanded and succeeded in securing an open door in the far east, as to China. But does any man imagine that we can demand and receive at the hands of the other nations and powers of the world an open door as to China, and not in turn be at least asked to give an open door

in the Philippines?

What does "an open door" mean? It means, Mr. President, that ships and merchandise of other nations shall go into the ports of the Philippines on precisely the same terms that our ships and merchandise go there. If we can not levy a duty on imports into the Philippines from the United States because, as the Senator from Massachusetts suggests, it would be an export duty, what is the consequence? We will have to go in free of duty; and if we go in free of all duty, the ships and merchandise of every other nation will go in free of all duty.

Mr. LINDSAY. Why? Mr. FORAKER. I have just said why. I say that an open door means that the ships and merchandise of every other nation shall have exactly the same privileges in the ports of the Philippines, if we have an open door there, as our ships and merchandise have. If we can not levy a duty on the products from this country going into the Philippines; if we are to be told, as the Senator from Massachusetts undertook to tell us a moment ago, that that is an export duty prohibited by the Constitution—if that is the law, and the Supreme Court says so, then we can go in there only free of duty; and if we go in free of duty, Germany and England and France and Austria and every other power in the world will go in with their ships and merchandise free of all duty.

Mr. TILLMAN. Will the Senator allow me?

Mr. FORAKER. If the Senator will wait a moment, I shall be

glad to yield to him.

I do not see how there is any escape from that difficulty. If we go into the Philippines free of duty, and they go in free of duty, it is because, as the Senator suggests, the Philippines have become, by this cession to the United States and our acceptance of it, so far an integral part of our country that they are the United States as much as any other Territory we have under the flag; and if they are the United States, and for that reason we can not levy an export duty, and for that reason when the ships and merchandise of other countries get within the ports of the Philippines they are within the ports of the United States, what is the consequence? Why, Mr. President, you can not levy either a protective or a revenue tariff; you may as well dismantle your custom-houses and go out of the business of collecting tariff revenues. There is no escape from it.

I say, therefore, every Senator here—Democrat and Republican alike—should rejoice at the opportunity this bill provides for raising a question that will put at issue our differences upon that point. I take it every Senator wants to reach a right conclusion; I take it that no Senator would think we were safe in answering the demands in the affirmative for an open door in the Philippines until we know certainly what the law is that is to govern in that contingency. Therefore it is, I say, there can be no intelligent legislation for Puerto Rico until we take a commanding view of

the whole situation.

Mr. PETTUS. Will the Senator allow me to ask him a question for information?

Mr. FORAKER. Certainly.

Mr. PETTUS. How was it settled that the Philippines should

have any open door?

Mr. FORAKER. It has not been settled that they shall have an open door; but I say it has been settled, as I am informed from that source of information which is common to us all, the newspapers, that we have demanded and we have received and been granted an open door in China by the other nations who trade in the East. I say we can not reasonably expect—I can go further and say I know we have no right to expect—that we will not be asked to give an open door in the Philippines; and if we get an open door we can not, without appearing very illiberal, niggardly, and mean, refuse an open door.

Mr. BACON. Will the Senator permit me to ask him, in order that I may have his views, what he understands by an "open

door" in China?

Mr. FORAKER. I explained a moment ago.

Mr. BACON. I was unfortunate in not hearing the Senator.

Mr. FORAKER. I took the pains to say that by an "open door" I understand that the same conditions are to exist and control as to the ships and merchandise of all countries that go there. For instance, we are to go into China on the same terms that the ships of other nations go in on; we are all to go in on an equality. If they pay no duty, we do not; and whatever duty they pay we

pay. So as to the Philippines—the ships and merchandise of other nations are to be allowed to go in, if there is an open door in the sense I understand it, upon precisely the same terms that our ships and merchandise go in.

Mr. TILLMAN. Will the Senator allow me?

Mr. FORAKER. Certainly.

Mr. TILLMAN. If the Philippines are an integral part of the United States, or if they are a part of our domain, I presume that the Dingley tariff, or any other tariff we may levy, will obtain there. China, as I understand it, does not belong to anybody yet, except to her own people, although there are spheres of influence and interests claimed by Germany, France, England, Russia. etc. Why is it that we will be under obligations as to a part of our own territory, of our title to which the Senator says he has no doubt, and that we are to be forced to recognize the rights of other people in regard to our own territory and give them concessions in regard to our own territory? And, then, the obligation rests with us, as the Senator seems to think, of being obliged to give them those advantages because we demand that they shall not go in and partition China and take it and divide it up and

erect a tariff wall against us.

Mr. FORAKER. I have not said that we are under obligations. except only what you might call a moral obligation arising from the nature of the transaction. We want to trade with the far east. We have reached that point in the development of our resources, in the manufacture of products, in the aggregation of capital, and in the command of skilled labor when we are turning out annually millions in value more than we can consume at home, So we must find a market somewhere in the world. We can not find it in Europe, but it is in the far east. In recognition of that fact, an open door to the markets of China is of the highest importance, for in China and Japan and Oceanica and Australasia they have some six or seven or eight hundred million people possibly, who are just now being introduced to our civilization and who are coming to want our products.

Now, we say to Germany, to France, and to England, who have been making lodgments there and who are in command of the situation, "You shall not shut these doors against us," as it was recently proposed they would. England said it two or three years ago; and I remember when she sailed her ships over to Chemulpo, and stood them off opposite Port Arthur, and issued that proclamation which made the Anglo Saxon blood start all over the world, in which she said, "These ports of China shall be open

to all or open to none.

Following that we have—

Mr. TILLMAN. Mr. President—

Mr. FORAKER. I will yield to the Senator in a moment.

We have, without any such declaration, without any threat, without any menaces, succeeded in obtaining for ourselves what Great Britain was unable to accomplish, although she made that threat; we have been accorded an open door, and it is of the utmost importance to us to consider what may be asked in return, for I say the probabilities are that we shall be asked to give an open door in the Philippines as soon as the insurrection there is suppressed and we institute a civil government. It is one of the inevitable coming questions, in my judgment. Now, when we are asked—we will not be necessarily required to give it, and we may not give it at all; but after we have so strenuously insisted

upon it and received it, it strikes me it will be a little bit em-

barrassing to withhold it.

Mr. TILLMAN. If the Senator will permit me right there, there is no one more anxious than I am to secure the open door to China, because I would inform the Senator it is a local matter, so to speak, so as to secure a market for the cotton exports of the South, which is our staple; and the exports largely from my State are cotton goods with which England can not compete and no other nation can compete with us. New England can not compete with us, nor can any other section. We, therefore, are as anxious and as solicitous for an open door to China as the Senator can possibly be.

But, Mr. President, the Senator's argument, if it amounts to anything, has reduced itself to this: That he is not certain yet as to whether he wants the Philippines or not. If the Supreme Court shall determine that the Philippine Islands under the treaty are a part of the United States and that the laws and Constitution of the United States will be enforced there, if they go there ex proprio vigore—to use the law phrase which has been dinged into our ears here for the last two years—if we have the Philippines as a part of this country, then he does not know whether he wants the

Philippines or not.

Mr. FORAKER. It will be a question always what we shall do as to the Philippines; and I will frankly say to the Senator, if it shall be determined by the Supreme Court, when that question is properly presented, that we can not levy any tax on imports from this country into the Philippines, or on imports from there here, we may have to adopt a very different policy in respect to the Philippines from that which I now anticipate will be adopted.

Mr. TILLMAN. Then what becomes of the contention about philanthropy and the flag and the glory and everything of that kind, and of the humanitarian aspects of the case? [Laughter.]

Mr. FORAKER. There is an easy answer to that, Mr. President. The Senator can not ridicule that idea in this connection. What I referred to in that connection was this: We want it settled not alone that we may know on what kind of conditions we can trade with that people, but we want it settled in order that we may know whether or not we can say to the people of the United States that the labor and the industry of this country shall be protected from what has been charged as the unjust competition of the Malay in the Philippines and the products of Malay cheap

labor.

All over the country in the last campaign, Mr. President—to be more specific with respect to that which was in my mind—we were told by those who represented organized labor; we were told by Democrats on the stump, all speaking, no doubt, according to their honest judgment, that by the annexation of the Philippines we had taken a people into the United States against whom and whose systems of labor there was no power in the Congress of the United States under the Constitution to defend and protect the labor and the industry of this country. We answered that there was such power under the Constitution; and we pointed to the judicial decisions of the Supreme Court of the United States to support our contention. But those statements and those authorities are not satisfactory to the Senator from South Carolina and others, and they still insist that they are right in their contention.

I say, Mr. President, I have enough confidence in my proposi-

tion, in the proposition upon which we stand in this matter, to have this question submitted to the Supreme Court and passed upon at the earliest possible time. I say not only should that he done, but, in my judgment, it would be nothing short of criminal stupidity in the Congress of the United States not to legislate when there is necessity for it, so as to raise that question and have it settled.

Mr. TILLMAN. Then, Mr. President, if the Senator will permit me, this whole Puerto Rican contention rests upon the theory that if we can stand free trade between Puerto Rico and the United States we would take that island under our sheltering wing and let the eagle brood over it; but we can not do the same

thing in Asia.

Mr. FORAKER. It does not raise any such thing. The Senator misunderstands. He would not misrepresent, for he is one of those kind-hearted, good men who are always solicitous to be perfectly fair to everybody. [Laughter.] What I have said, and been at a great deal of pains to say, is that the conditions in Puerto Rico are such as to make it necessary, if we would have the necessary revenue raised in the easiest way possible, to raise it in the way provided by this bill.

Then, in answer to the question propounded to me by the Senator from Massachusetts [Mr. HOAR], I took up the question about which I have now been talking as one of the incidents of this legislation, and I have said that I rejoice in the fact that it will become necessary for the Supreme Court to pass upon that question, and thus put an end to a controversy that is hopeless, so far as the

ending of it otherwise is concerned.

Mr. Tillman. Will the Senator explain why it was that the President of the United States, who had better sources of information than he did, prior to the assembling of Congress, in his message, gave us to understand that it was our bounden duty to have free trade between the United States and Puerto Rico, and that he himself introduced a bill without any mention of this great exigency, that this was necessary, or that this revenue must be derived to keep people from starving, and that in the House of Representatives there was introduced a free-trade bill, and they only found after Mr. Oxnard, the sugar-trust king, had gone before a committee that there were interests which would be jeopardized if sugar came in free-

Mr. FORAKER. I will have to refer the Senator to my col-

league.

Mr. TILLMAN. To whom?
Mr. FORAKER. To my colleague. I do not know. I am not the keeper of the President's opinion. I do not know whether my colleague can answer it or not, but I want to say to the Senator from South Carolina that the President no doubt spoke the sentiment that was in his mind when he made that recommendation, and it is a sentiment which is in the highest degree creditable to him. I was of the same opinion. I wanted free trade with Puerto I think everybody else here wants free trade with Puerto Rico as soon as it can be safely had. Nowhere in the United States could you find 11 men more thoroughly friendly to the Puerto Ricans and more thoroughly anxious to do for the Puerto Ricans everything in their power than constituted the Committee on Pacific Islands and Puerto Rico.

It was a struggle with us to know how we could show them the

most generosity, and, as the Senator from Minnesota has well said. the generosity we have manifested is absolutely without a precedent. In the first draft of the bill I made I did not have quite courage enough to put into it a provision that all the internalrevenue taxes collected in the island should go into the insular treasury; but after we studied and after we figured and after we found how prostrated were their industries, how little could be raised in this and that and the other way, and found it was necessary to resort to every method here provided to get enough revenue to exempt them from direct taxation, then I was willing to agree to it and did. Now, then—
Mr. TILLMAN. In other words—

The PRESIDING OFFICER (Mr. CLAY in the chair). Does the Senator from Ohio yield to the Senator from South Carolina? Mr. FORAKER. I will yield in a moment. I do not know whether or not the President has changed his mind. I know nothing about that; I do not pretend to know; but I have no doubt that the President knows more about it now than he did then. I know I do. I did not know much about the situation there existing, although I had been reading the newspapers; but when we sat as a committee, when witnesses were brought before us, when they told us in detail what the existing situation was, and when we came to know what it was, then we conceived it to be our duty to do what we have done. It may be that the President knows more about it now than when he wrote his message; and if so, and if he shall have changed his mind, that is also to his credit. It is to his credit as a man, his credit as a statesman, his credit as President that he should have made the recommendations when he possessed the knowledge he then had, and equally to his credit, if such be the case, that, having more knowledge, he should change his mind if he thinks that the additional knowledge tends to show that he should.

Mr. TILLMAN. In other words, if the Senator will permit me, he clings to the doctrine that protection to American labor is paramount and supreme, and that he will hold to the horn of that altar without regard to any of this philanthropy of which we have

heard so much.

Mr. FORAKER. No, I do not do any such thing: but I do not think there is any higher or any better philanthropy than that which commences at home.

Mr. TILLMAN. I do not believe there is, either.

Mr. FORAKER. I do not think there is any better philanthropy than that which seeks to protect the wage-worker and the capital of this country from unjust competition from abroad. We fear no competition from Puerto Rico; that has nothing to do with it; but in the contingency I have pointed out there may and would come a competition which would be prejudicial; and if we are wise, we will now legislate to prepare the way for protection

when that trouble comes.

Mr. TILLMAN. Their sugar comes in direct competition with the sugar of Louisiana and their rice with the rice of South Carolina and their tobacco with the tobacco of the Southern States, which is largely of the same texture and quality. The Senator demands protection for the manufacturing industries of this coun-We of the South are opposed to admitting these islands in the Pacific, because we will come in direct competition with them in the products of agriculture; and unless he shall strain the Constitution to the point where it will no longer be a Constitution for all who will be under the protection of the American flag, but that there will be subjects and citizens, unless there shall be a differentiation and a division and all our old ideas about the consent of the governed and the equality of men are to disappear, the very fundamental principles of American freedom are to be overturned in behalf of this doctrine of destmy, duty, and dollars, we have to face the alternative of considering the Filipinos as American citizens; and if the Supreme Court shall declare they are not, then it will be because the Supreme Court acknowledges no God and no law other than its own will and is determined to adhere to its fealty to the moneyed classes of this country.

Then, in advance we have a statement from Mr. FORAKER. the Senator from South Carolina to the effect that, no matter what the Supreme Court of the United States may decide, he does not propose to abide by it or respect it unless it is in accordance with

the views he now entertains.

Mr. TILLMAN. There have been so many decisions from the Supreme Court that I had to swallow, whether I thought they were honest or not, that I expect to be forced to abide by this as

we have had to abide by other decisions.

Mr. FORAKER. I can say for myself, and I think I can say for every other Senator in this Chamber or entitled to sit here, that there is for the Supreme Court of the United States and has always been only the supremest respect and the utmost confidence. I believe not only that the Supreme Court ought to settle that question, but I believe also that the Supreme Court will settle it rightly. I believe they ought to settle it before gentlemen of whom the Senator from South Carolina is a type become so excited about it that they can not speak of the decision when made respectfully

Mr. TILLMAN. Oh, Mr. President, I am not the first man either in the Senate or out of it who has spoken disrespectfully of the Supreme Court. I call the Senator's attention to the fact that when the Dred Scott decision was made by the same august assembly the apostle of liberty, Abraham Lincoln, declared it was wrong.
Mr. FORAKER. Unquestionably.
Mr. TILLMAN. The Republican platform declared it was

wrong. It was said that it was a covenant with hell.

Mr. FORAKER. But everybody bowed to the law thus declared until by the arbitrament of arms it was set aside. So I say no matter what this, that, or the other individual may have in the way of an opinion with respect to the Supreme Court, that tribunal and it alone can end this controversy, and we should welcome an opportunity to present the question to it; and because this bill presents that question I am more strongly in favor of it than I would otherwise be, and I think every other Senator is who has confidence in the position he maintains. Senators on the other side generally, I think, will be glad to see it submitted, glad to have the court pass upon it, glad to have the legislative department of the Union instructed as to our relations to the island and as to the course of legislation we can pursue.

But I have been drawn here into a very irregular and a very extended sort of debate. I did not expect, when I arose, to consume anything like this much of the time of the Senate. I wanted, in a very brief way, to make answer to the criticism of the Senator from Alabama, that this bill is illiberal and unjust in its provisions with respect to Puerto Rico. I wanted to show that on the contrary it is the very opposite, and if I have accomplished that, it is all I started out to do at this time. Being in charge of the bill. I will, of course, have an opportunity to answer as to various legal propositions that may be raised as we proceed in the consideration of the measure, and I will have an opportunity to answer every question as it may be presented. I had no thought at this time of making any formal legal argument. I will say that the more I think of it the more I think I will not make any at all: for what is the use?

Mr. BACON rose.

Mr. FORAKER. The Senator from Georgia [Mr. Bacon] has his view about it, and he bases it on authorities that he has examined. He is an able lawyer. He reaches an opinion only after examination and consideration. I know he will retain that opinion, no matter what I may say. It is useless for me to bring in the case of American Insurance Company against Canter, in 1 Peters, or Sere vs. Pitot, in 6 Cranch, or the Mormon Church case, in 136 U.S., or any of the many authorities which have been cited and can be cited, and thrash that straw all over again. I intend to rest the whole proposition right here, that, as I said a while ago, we have got beyond the stage where quoting authorities will do any good.

Mr. TELLER. Mr. President, I sought the opportunity of asking the Senator from Ohio [Mr. FORAKER] a question, and I did not get it when he closed his speech. I want to know, if I can, the theory upon which the Senator presents this bill. I followed the Senator in his remarks, but I did not find out anything much except that he hoped the Supreme Court would have an opportunity to determine whether this is proper legislation or not. I want to know whether, according to the theory of the Senator from Ohio, if the bill becomes a law as it now stands, Puerto Rico will be a part of the United States or not?

Mr. FORAKER. I said expressly in the course of my remarks that I regard Puerto Rico as a desendency belonging to the United States, and not as a part of the United States in any integral

Mr. TELLER. Is that the position the Senator takes? Mr. FORAKER. That is the position I take now and have taken

all the time.

Mr. TELLER. If that is true, I want to call his attention to what, it seems to me, is the industrious way in which he has gone in to make it a part of the United States, and if possible I wish to have the Senator now or at some other time distinguish to us how Puerto Rico will be different from the Territories we have been legislating for during many years.

Mr. FORAKER rose.

Mr. TELLER. I do not ask the Senator to do it now.

Mr. FORAKER. I think I can do it now.
Mr. TELLER. Well, the Senator may do it now, if he will.
Mr. FORAKER. I think that all the territories which we have acquired have been, independently of the treaty provisions, mere dependencies belonging, so far as acquisition went, to the United States: but ordinarily in the acquisition of territory heretofore by treaty there has been an express stipulation that the territory and the inhabitants should be incorporated into the Union. In this case there is no such stipulation. Notwithstanding there has been that stipulation herefofors, our Supreme Court, as I read the other day, in 18 Wallace, reading from Mr. Justice Bradley, has uniformly held in effect, according to the language employed by him, that our Territories are mere dependencies of the United States, which the Congress has a right, in the exercise of the derived from the Constitution, to govern as it may see fit.

Now, when we come to this territory it is much more a dependency than any of the other acquisitions were, because there is no such stipulation in the treaty, but on the contrary the stipulation is that Congress shall have power to fix or to determine the civil and political status of the inhabitants. That means not only that we shall have a right to say whether they shall be citizens of the United States in a national sense or not citizens, or whether they shall vote or sit on juries or have jury trials, but it also means that we have power to determine whether or not they shall be subjected to the same kind of taxation that the people of the United States elsewhere are subjected to, or whether they shall be favored in that respect as we have undertaken to favor them here. I think everything of that kind which relates to and affects their civil and political status is authorized by the treaty, which is as much a part of the supreme law of the land as the Constitution itself, and is made so by the Constitution.

Mr. TELLER. Mr. President. I do not myself differ very much with the Senator from Ohio as to the power of the General Government over these new possessions or over the Territories. I think when we took Louisiana we took it with a moral obligation at least to make a State of it; but until we did make a State of it we had the same power that we have over the new possession here. I find no difficulty whatever in managing this affair; but we must manage it, I think, upon either the theory that Puerto Rico is not a part of the United States or that she is. Now, if Puerto Rico is a part of the United States. I should like the Senator to tell me where he gets his authority to treat Puerto Rico as

a foreign country.

Mr. FORAKER. I do not treat—
Mr. TELLER. Wait a moment. I will not now go into the question that the Senator from Massachusetts [Mr. Hoar] has just discussed, which has been in my mind all the time; but I should like to know whether there is not an obligation upon the Government to treat the citizens of every part of the country alike, if these people are to be citizens and this is to be a part and parcel of the United States.

Mr. FORAKER. Mr. President, I have before me now the case in 18 Wallace to which I referred a moment ago, and I should like in this connection to read the language I referred to as used by Mr. Justice Bradley in the case of Snow vs. The United States.

at page 319, 18 Wallace:

The government of the Territories of the United States belongs, primarily, to Congress, and, secondarily, to such azencies as Congress may establish for that purpose. During the term of their pupilage as Territories they are mere dependencies of the United States.

Then he reiterates that expression further along in the opinion. Now, if Territories that were acquired under treaties that expressly stipulated that they should be incorporated into the Union as States and the inhabitants of the Territories be admitted to citizenship in due time were dependencies, while in the state of pupilage that they were in as Territories, much more, it seems to me, have we a right to say that Puerto Rico is not a part of the United States within the meaning of the Constitution, but is a

dependency of the United States, and, being a dependency of the United States, we have a right to legislate for it as a possession belonging to the United States, but not as a country that is a part

Therefore, I say there is no difficulty to my mind in answering the question the Senator from Massachusetts asked me, which I did not think it necessary to answer beyond the answer I made. but which I will, now that the Senator from Colorado has again referred to it, answer further. The duty which they pay upon goods going into Puerto Rico is not for the privilege of exporting. The exportation has been completed when they pass out of our harbor. But when they go beyond our harbors and are on the high seas they can go to France, or Spain, or South America, or wherever they like, and enter upon such terms as may be prescribed for admission to those ports. If they see fit to go to this province, or colony, or dependency, or whatever you may see fit to call it, that is not the United States, but a possession belonging to it, they may have the privilege of entering there on the payment of this duty which we prescribe. Therefore, I say it is not a privilege for export, but it is purely and solely a privilege they pay for entering the harbor of that possession or dependency of the United States.

Mr. TELLER. I should like to ask the Senator another question, which it seems to me to be perfectly pertinent to what he has been saying. Have we the power now to lay a duty upon goods going into New Mexico?

Mr. FORAKER. No: certainly not.

Mr. TELLER. Or goods coming from New Mexico? Mr. FORAKER. Certainly not. Mr. TELLER. Why not?

Mr. FORAKER. Because while New Mexico is still a Territory and within this language a dependency, yet the Constitution has been expressly extended to New Mexico, has been made the rule of action in the Territory as the organic law of that Territory there the same as here.

Mr. TELLER. I will make another illustration that will perhaps suit the Senator better. I believe the Constitution has not been extended over Alaska. What will the Senator say about Alaska?

Mr. FORAKER. I say it is in the power of Congress to do as it may like as to Alaska. Where the Constitution has not been extended and made the rule of action, it is within the power of Congress to say what shall be the regulation without regard to the restraints of the Constitution, except only with respect to those plain, positive negations that I have already referred to.

Mr. BACON. Mr. President, I intended to ask the Senator from Ohio a question while he was on the floor. I shall occupy a very short time in stating the subject relative to which I intended to make an inquiry. I do not desire to prolong the discussion, but the matter is one which I think might well appear in connection with this afternoon's debate. The Senator from Ohio states that this legislation with reference to the imposition of a tariff duty upon articles going from the United States to Puerto Rico and coming from Puerto Rico to any other part of the United States, as we conceive it, is based upon the proposition that Puerto Rico is not a part of the United States. I understand that to be the proposition?

Mr. FORAKER. Not in the sense that a State of the Union is. I say it is part of the United States in the sense that it is part of our possessions. It is a dependency.
Mr. BACON. Exactly.

Mr. FORAKER. And a dependency to which we have not extended the Constitution and to which it does not extend ex proprio

Mr. BACON. It is a possession.

Mr. FORAKER. Yes, sir.

Mr. BACON. And not a part of the United States over which the Constitution and laws of the United States extend except so far as they have been specifically extended by act of Congress.

That necessarily involves the additional proposition that no inhabitant of Puerto Rico is a citizen of the United States. Neces-

sarily that must follow.

Mr. FORAKER. Will the Senator repeat that proposition?

My attention was diverted for just a moment.

Mr. BACON. I say that a necessary conclusion from that proposition is that no inhabitant of Puerto Rico is a citizen of the United States.

Mr. FORAKER. Do you ask the question?

Mr. BACON. Am I correct in that?

Mr. FORAKER. Not unless we see fit to make them such. Mr. BACON. You do not make them so by any legislation? Mr. FORAKER. We propose to do so by this bill—in a national sense.

Mr. BACON. This bill?

Mr. FORAKER. This bill provides that the native inhabitants

of that island shall be citizens of the United States.

Mr. BACON. Then the additional proposition follows that-Mr. FORAKER. Let me explain to the Senator that a few days ago in the debate here I dwelt upon that and pointed out upon authority that that term is used in an international, a national, and a State sense. This fixes their status, and being citizens of the United States means they have the right to look to us for protection; they owe us allegiance; they can apply for a passport if they want to travel abroad.

Mr. BACON. They owe us allegiance, but have none of the rights of citizens of the United States. In other words, the Constitution of the United States is not spread over them. I under-

stand that to be the proposition.

But what I want to call the attention of the Senate to is this: It is impossible for me to conceive of a citizen of the United States who is not under the Constitution of the United States. He may be a subject of the United States, if such a thing can constitutionally be: but when I say citizen, I mean one enjoying the right of citizenship under our Constitution and laws. I understand from the position of the Senator that that necessarily follows. If the Constitution and laws of the United States do not extend over Puerto Rico, no inhabitant of Puerto Rico is under the protection of the Constitution and laws of the United States except so far as they are specifically extended to them by act of Congress.

Mr. FORAKER. And we do extend specifically all the laws of the United States not locally inapplicable. But let me say to the Senator from Georgia that in making them citizens, although the Constitution is not extended, we are doing simply what was done with respect to Louisiana and Florida and all of our other territorial possessions. We never extended the Constitution to any Territory until 1850, when it was extended to New Mexico, and yet in all the Territories we were then governing the people were treated and regarded as citizens of the United States.

Mr. BACON. But citizens not under the Constitution.

Mr. FORAKER. They are citizens governed by Congress—

Mr. BACON. Exactly.

Mr. FORAKER. As Congress may see fit to govern, under its

power derived from the Constitution.

Mr. BACON. Citizens not under the Constitution. What I want to call the attention of the Senate to is this: In this bill there is a provision under which Puerto Rico will elect a Delegate to Congress. I will read the section.

SEC. 37. That the qualified voters of Puerto Rico shall, on the first Tuesday after the first Monday of November, A. D. 1900, and every two years thereafter, choose one Delegate to the House of Representatives of the United States, who shall be entitled to a seat, but not to a vote, in that body, on the certificate of election of the governor of Puerto Rico, who shall have the same rights provided by law for a Territorial Delegate and the same compensation payable as now provided by law for a Territorial Delegate.

I am one of those who believe that whenever we legislate for territory which we may acquire, necessarily we must legislate under the Constitution of the United States, and that by the act of organizing a civil government under the United States Government we necessarily extend the Constitution over them by that act, or rather that whenever we legislate for that territory that the Constitution ex proprio vigore is extended whenever we, by such legislation, organize civil government; and whenever we depart from that proposition we at once enter upon a field of diffi-

culty.

Here is an illustration of it in this bill. It is absolutely provided that in a portion of the territory subject to the jurisdiction of the United States there shall be a body of people, not citizens in the sense that we are citizens, a body of people not entitled to the protection of the Constitution, a body of people whose country is not entitled to the enjoyment of any of the prohibitions of the Constitution with respect to the equality of tariff laws, for instance, and yet a people who thus, without the right of citizenship in its proper sense, can select one who equally with themselves does not enjoy the right of citizenship, and yet who is to come and occupy a seat in Congress, perform all the duties of a member of Congress except the right to vote, and enjoy all the emoluments

of a member of Congress.

Not only so, but absolutely before he can take his seat, although he is not under the Constitution of the United States and not a citizen of the United States, he is required to take an oath to support the Constitution of the United States. That is a fact. Every Territorial Delegate has to take an oath to support the Constitution of the United States, and there will sit in the House of Representatives a man not enjoying any of the rights and prerogatives of a citizen under the Constitution of the United States, and yet sitting with the constitution of the United States, and yet sitting with the constitution of the United States, and yet sitting with the constitutional lawmakers of the country, drawing pay equally with them, and entitled to all of the privileges and emoluments of one of them, and absolutely compelled to swear to support the Constitution under which he is not entitled to any protection, owing it neither duty nor obligation, nor under it enjoying any privilege.

Mr. TILLMAN. Will the Senator from Ohio tell us whether

each native voter will have to take the same oath?

Mr. FORAKER. There is not anything new in all that the Senator from Georgia has said, impressively as he has said it. When we legislated for the Orleans Territory and later for Louisiana Territory and later for Florida Territory and later for Missouri, and when we legislated for Mississippi and Alabama and Arkansas, we declined to extend the Constitution to those Territories, and yet we required every officer appointed by the President to administer the law of Congress in those Territories to take an eath to support the Constitution of the United States, and every citizen of those Territories was treated and regarded and held under the law to be a citizen of the United States, although not living within territory over which the Constitution extended ex proprio vigore or by act of Congress, for at that time the doctrine that the Constitution extends itself by its own inherent operation had not been heard of in the politics of this country, and it never was heard of until 1850, when we came to legislate for New Mexico, or, rather, in the debate immediately preceding, when it was advanced for the first time by John C. Calhoun in the interest of human slavery. It was then first brought forward, and Thomas H. Benton, of Missouri, characterized it, in language which I read to the Senate a few days ago, as the vagary of a diseased mind.

Mr. President, therefore I say, in answer to the Senator's question, that when he points out that we make the people of Puerto Rico citizens of the United States, it does not follow, any more than it did in the cases to which I have referred, that the citizens were without any privileges or immunities that they ought to have, for in all the legislation applicable to them Congress legislated, restrained, as I have always contended and as I believe, by those positive prohibitions and negations of the Constitution which will inure to their benefit whether the Constitution be extended or not, simply because we are restrained by the Constitution; but above all, whether there is any restraint imposed upon us by the terms of the Constitution, we are restrained by that higher law of the spirit of our institutions which has been referred to time and again in Supreme Court decisions, and notably so in the Mormon Church cases, by Mr. Justice Bradley, and time and again repeated We take away no immunity, no privilege, no right since then. that belongs to the individual in the personal sense that affects him as to his liberty or those privileges and immunities that be-

long to him.

Mr. BACON. It is not a question whether or not we take it away. It is a question whether he has it as a matter of right or

simply enjoys it from us as a matter of gift or grace.

I will not enter into the question suggested by the Senator as to the doctrine which he said was first enunciated in 1849 with respect to the effect and power of the Constitution in the Territories. I think, however, it can be very plainly shown that the contention of those of whom he speaks was not as to whether the Constitution was in force in the Territories, but, as suggested by the senior Senator from Ma sachusetts [Mr. HOAR], whether a particular construction of the Constitution carried with it and protected the right of slave property in the Territories. That was the question. I am not going into that.

The Senator from Ohio says that in the various Territories which were organized every officer who was appointed by the

President of the United States in those Territories was required to take an oath to support the Constitution of the United States. Clearly so. Because he was appointed by the President.

Mr. FORAKER. Mr. President-

Mr. BACON. I hope the Senator will let me proceed for a little while.

Mr. FORAKER. Why should not the officers of Puerto Rico

be so required?

Mr. BACON. Because they are not appointed by the Government of the United States. They are officers who are elected by the votes of the people and who are to hold their commissions by virtue of the fact that they received the votes of the people, and the Delegate is to come here and take his seat in the other House of Congress—

Mr. FORAKER. It was the same as to every Delegate elected from the Territories to which I have referred. Every Delegate who was elected and who came and took his seat, but did not have a vote, was required before he could take his seat to take an oath to support the Constitution of the United States, and yet he was elected by people who were not under the Constitution.

Mr. BACON. I do not think the Senator can show in the case of any one of those Territories that there was the explicit statement or contention which the Senator makes here that that Territory was not a part of the United States, not under the Constitution. The avowal is that Puerto Rico is not a part of the United States, and it is claimed that we have the same right to legislate in reference to it that we would have if there were no such possible connection of a Territory with the United States as we have heretofore understood it, but as an entirely separate and independent country held by us as a chattel, to be done with by us

as we please.

There has never been any such contention so far as our past history has been concerned. It has related entirely to territory which it was expected to be thereafter incorporated as a part of our political system; but there is in this bill an express provision for the levying and collection of impost duties which must confessedly be in conflict with the Constitution if it is a part of the United States; and the justification and defense for that provision is that this is not a part of the United States; that it is outside of the United States. And in the same bill it is provided that a forceign country, not under the Constitution of the United States, its citizens not under the Constitution, except so far as we may extend it by direct act of Congress, may nevertheless elect a Delegate to sit in Congress, and before he takes his seat qualify himself by taking an oath to support the Constitution of the United States in which those who advocate this bill say he has no part.

Mr. President, I do not design to pursue the question now, but I thought in connection with the debate which has been continued to-day upon this subject it was proper that there should be this particular mention of the inconsistency which necessarily follows whenever we assume to legislate and organize a civil government under the jurisdiction of the United States and at the same time insist that the Constitution of the United States and the laws applicable to that particular territory do not go ex proprio vigore: but that it is necessary for us by express act to extend the Constitution, and that unless we do it by express act given as a matter of grace, the Constitution has then there no validity and no author-

ity.

Mr. McCUMBER. Mr. President, I do not rise at this time for the purpose of making any extended speech upon this question, but merely to ask the Senator from Ohio a simple question relative to the construction of that portion of our Constitution which is now under discussion, namely:

No tax or duty shall be laid on articles exported from any State.

To make my question clear, I desire to make this supposition: Suppose I have a shipload of grain to be exported from the port of New York or from any other port in the United States desired to Puerto Rico. The Senator, as I understand, will admit that we can not lay an export duty direct upon any of the articles in the shipload. Now, what I desire to ask him is this: At what time can we place a duty upon any of such articles? Admitting that we can not place an export duty upon them in the port of New York or New Orleans, that we can not reach them in midocean at any place, will it be contended that we can, by the method adopted in this bill, apply our laws to them so that it will in effect be an export duty at the time they reach the port in

Puerto Rico?

I think the Senator will agree with me that if the same goods were going to Great Britain the moment they reached her ports they would be subject to her jurisdiction. Why? Because she is a foreign power, and our laws will not reach beyond the limits of our own jurisdiction. Admitting that to be the case, then I ask when and where do we get the power to apply a duty upon anything that shall be exported from the United States to Puerto Rico? What law is it that governs? We say that we can not levy this export duty in New York, or at any other place in the United States; but whose law is it that imposes the duty, whether it is in Puerto Rico or whether it is in the United States? It is not Puerto Rican law that levies the duty in her ports. The very law that makes the duty is a law of the Government of the United States. It reaches across the ocean and it lays its hand upon the cargo in another jurisdiction, in another port. Therefore it is the same law against which this inhibition is provided in the Constitution itself. Is not that true?

We must do one of two things, it seems to me, Mr. President; either consider these new possessions, so far as the application of our revenue laws is concerned, as one of our own dependencies, over which the Constitution of itself acts, or we must consider it in the nature of a foreign country. If we consider it in the latter position, which I contend for so far as the application of the principle of our revenue laws is concerned, then we must admit that the Constitution has no application. I believe that is the law. I do not believe that the Constitution of the United States has any application over any of this acquired territory without the express language of our own laws by an enactment to that effect. But conceding that to be the case, then I say is not this in effect and absolutely the levying of an export duty by our law reaching beyond our own ports and seeking to levy it in the ports of one of our own dependencies? If that is true, is it necessary for us to go to the Supreme Court of the United States to determine a question which it seems to me is as clear as any legal proposition that could be placed before us?

Upon the other proposition, of our right to levy a duty upon articles imported from Puerto Rico to the United States, my mind is clear. I will admit that power. I will admit the power of protection against any of the imported articles from any country,

whether it be a foreign country or one of our newly acquired possessions; but it seems to me that I am compelled, not only by the Constitution, but by our reasoning powers, to claim that there could not be, in the very nature of things, a duty imposed upon articles in the port of New York, in midocean, or at any other point prior to their reaching their final destination, or at the point of destination, when the law itself is a law of Congress which makes the duty and which is clearly and expressly prohibited by our Constitution. I desire the Senator from Ohio to indicate to me what is the difference between the power exercised upon those particular articles in our own ports and the same law, not a different law, but the same identical law, operating upon them at the other end of the route.

Mr. FORAKER. That is the question upon which the Senator from Massachusetts and I had a colloquy a few moments ago. I can only repeat now, in answer to the inquiry of the Senator from North Dakota, what I then said to the Senator from Massachusetts. I understand that Puerto Rico is a dependency of the United States not different in any sense whatever from any other territory that the United States may acquire, or ever has acquired, except as the treaty of acquisition may have made a difference in the first instance, and the express extension of the Constitution in the second instance may have made a difference.

I understand that when we acquired the Territory of Louisiana and Florida and New Mexico and other territory it was stipulated that that territory should be incorporated into the Union in due time, and the inhabitants should be incorporated into the Union. I understand that notwithstanding that fact the Supreme Court has over and over again in its decisions held that these Territories are mere dependencies, to be governed as Congress may see fit; and if Congress sees fit to declare that the Constitution shall be extended to and put into force, the Constitution becomes the rule of action, and the limitations of the Constitution would apply.

But until that has been done there is no limitation of the Constitution of the character involved in the Senator's inquiry that does apply: Puerto Rico belongs, just as other territory acquired belongs, to the United States. Why, Mr. President, the Constitution itself draws the distinction between territory that belongs in the Union and territory that belongs outside. What is it that we are authorized to legislate about? Not territory of the United States, but territory, to use the exact language of the Constitution, belonging to the United States; and when we come to legislate for territory belonging to it we legislate free from all

restraints and limitations of the Constitution.

Now, Puerto Rico is territory belonging to the United States. Therefore we have power under the Constitution to legislate for it. How? As we may see fit. Therefore, when we come to the provision upon which the Senator relies, I answer to him that the Constitution applies to the Union, and you can not levy an export tax upon products sent out of the United States, because of the limitation that he refers to. But when it has gone beyond the United States it can go where it may; and if the Congress sees fit to say that as to any territor? which simply belongs to and is not otherwise a part of the United States—territory to which the Constitution has not been extent ed—it shall not have the privilege of entering there except on the payment of duty. It is within the power of Congress to do it, and the duty that is imposed is not an export duty, but a duty paid for the privilege of entering that port, which is

not under the Constitution, and for which Congress has plenary and absolute power to legislate as it may see fit.

Mr. KENNEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio vield to the Senator from Delaware?

Mr. FORAKER. Certainly. Mr. KENNEY. I wish to ask the Senator from Ohio to give the definition or difference between territory of the United States

and territory belonging to the United States.

Mr. FORAKER. Territory of the United States in the sense in which I used that term a moment ago is territory within the Union of States. All territory outside of the States, including the Territory of New Mexico and the Territory of Arizona, all territory that has not been admitted to the Union, is territory belonging to the United States, and we have a right to legislate about it as we see fit. If we want, we can extend the Constitution by act of Congress, and if we do not see fit to so extend it it does not extend ex proprio vigore.

Now, in this connection I wish to answer the Senator from Georgia with the citation from Mr. Benton that I referred to a

moment ago.

Mr. SPOONER. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FORAKER. Certainly.

Mr. SPOONER. The Senator will make his argument, I think. a little stronger—no stronger, perhaps, than it ought to be madeif he quotes the Constitution as it reads in that connection. It

The territory or other property belonging to the United States.

Mr. FORAKER. I thank the Senator from Wisconsin for calling my attention to the clause. The power that is given to Congress to legislate for territory belonging is the same power that is given to Congress to legislate for other property, so that we have absolutely the same power to legislate with respect to territory belonging to the United States that we have to legislate in the disposition of a lot of condemned ordnance or a piece of realty or anything else which Congress might want to deal with or dispose of.

Mr. RAWLINS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio

yield to the Senator from Utah?

Mr. FORAKER. I will yield; but I do want, in answer to the Senator from Georgia, to read this quotation from Mr. Benton before I quit the floor.

Mr. RAWLINS. In connection with the question propounded to the Senator from Ohio by the Senator from Wisconsin, that

that provision of the Constitution-

Mr. FORAKER. Would not the Senator as soon interrupt me

later on?

Mr. RAWLINS. I had just about concluded. That provision refers only to the territory or other property. Therefore it deals alone with property and not with the people. Therefore Congress may do what it pleases with property; but can it do what it

pleases with the people under that clause?

Mr. FORAKER. Well, Mr. President, I will point to the precedents about that. My proposition is that the Congress has power,

and has exercised it in every instance, to do as it sees fit with respect to the people as well as the territory. I do not know how

you are to distinguish.

Mr. SPOONER. I suppose the argument of the Senator from Utah would be that if people settle upon territory of the United States, thereby Congress would lose its constitutional power over them.

Mr. RAWLINS. If I may be—
Mr. SPOONER. It would no longer be property and subject to disposition by the United States because people had settled

upon it.

Mr. RAWLINS. I do not think the courts have held that Congress derives its power to legislate for people in a Territory from that clause in the Constitution. The idea is that the Constitution was ordained, among other things, to secure the blessings of liberty to the framers of the Constitution and their posterity, meaning by that the people of the United States, whether native born or naturalized, and their posterity; and wherever that people might go, in a State or in a Territory, this Constitution was to be their heritage; and for them it was to be the supreme law of the land wherever the political jurisdiction of the Union extended.

Such has been the interpretation, I think, of the Supreme Court and the practice of this Government from the foundation of it until the present time, the Supreme Court itself holding in a case, in 9 Howard, that the Constitution superseded the act previously passed in relation to the Northwest Territory; that the Constitution was not in conformity with its provisions, and that hence the Constitution superseded it, and that the act was only continued by virtue of the act passed by Congress August 7, after the Con-

stitution took effect.

here.

Mr. FORAKER. Mr. President— Mr. SPOONER. Does the Senator from Utah claim that the Supreme Court held that the Constitution of the United States superseded the ordinance of 1787?

Mr. RAWLINS. That is what they held. I have the decision

Mr. SPOONER. I remember they held that the admission of a

State into the Union operated to supersede the ordinance.

Mr. FORAKER. But never in any other case. Mr. SPOONER. Which, I think, is correct.

Mr. HOAR. To what case does the Senator refer? Mr. RAWLINS. The case of Strader vs. Graham.

Mr. SPOONER. They held in that case that the admission by Congress of a Territory into the Union superseded the ordinance of 1787.

Mr. RAWLINS. Here the court-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to this colloquy?

Mr. SPOONER. I beg pardon.

Mr. FORAKER. I do not want to interrupt the Senators, but I should like to conclude what I was trying to say. The Senator from Utah can repeat the question to-morrow. It is only fifteen minutes until the time when we shall have to take a recess.

Mr. RAWLINS. I will not detain the Senate by referring to the language of this decision. It explicitly holds what I contend. Mr. FORAKER. Mr. President, I wish to answer the Senator from Georgia [Mr. Bacon]. He said he did not understand that

I could show that there had been any legislation (I may not quote him exactly right, and I hope he will correct me if I do not) providing, as I indicated a while ago, that officials who were elected from Territories to which the Constitution had not been extended should, nevertheless, be required to take an oath to support the Constitution of the United States, instancing in that regard the election of a Delegate to Congress.

I wish to call his attention now to the organic acts as compiled in Senate Document No. 148, the provision as to Missouri when it was created a Territory. The Constitution was not extended to

Missouri. I read from page 37. It provides here:

That all free white male citizens of the United States above the age of 21 years who have resided in said Territory twelve mouths next preceding an election, and who shall have paid a Territorial or county tax, assessed at least six months previous thereto, shall be entitled to vote for representatives to the general assembly of said Territory.

Provisions similar to that, provisions, as I said a while ago, recognizing citizenship of the United States, will be found in every act creating a Territorial government that was enacted by Congress prior to the time when Congress expressly extended the Constitution to the Territories of the United States.

Mr. BACON. What section does the Senator read from?

Mr. FORAKER. I was reading from the last clause of section 6, on page 37. Now, it further provides, on page 39, section 13, for the election of a Delegate to Congress:

That the citizens of the said Territory entitled to vote for representatives to the general assembly thereof shall, at the time of electing their representatives to the said general assembly, also elect one Delegate from the said Territory to the Congress of the United States; and the Delegate so elected shall possess the same powers, shall have the same privileges and compensation for his attendance in Congress, and for going to and returning from the same, as hereofore have been granted to and provided for a Delegate from any Territory of the United States.

So the requirements are precisely the same as to that Delegate as the requirements in this bill to which the Senator has taken exception.

Mr. BACON. Now, if I-

Mr. FORAKER. Now, in the next section, if the Senator will allow me, instead of extending the Constitution, they do by express legislative enactment extend to the people in the Territory of Missouri certain constitutional guaranties, not, however, as constitutional guaranties, but as legislative guaranties, quoting from

the Bill of Rights in that particular.

Now, Mr. President, that of itself shows that in the opinion of Congress at that time the Constitution did not ex proprio vigore extend into the Territory. Otherwise, they would not have legislated the provisions of the Bill of Rights into a statute of the United States for the protection of the citizens there. In my opinion it is unnecessary so to legislate, because those personal immunities go to the citizen anyhow by virtue of what I have referred to heretofore.

Mr. BACON. Mr. President-

Mr. FORAKER. Now, the Senator must wait until I finish. I will yield in a moment. To further show that this doctrine that the Constitution extends ex proprio vigore was not known in the politics of this country until the discussion came on with respect to Territorial governments for New Mexico and Utah and some kind of a government for California in the debates of 1848 and 1849, I will read what Mr. Benton said.

Mr. BACON. Before the Senator passes, I should like to ask

him-

Mr. FORAKER. I want to read this, and then the Senator can ask me anything he wants to ask. Mr. Benton said, in speaking of this doctrine, speaking of the debates of 1848, 1849, and 1850:

A new dogma was invented to fit the case—that of the transmigration of the Constitution (the slavery part of it) into the Territories, overriding and overruling all the anti-slavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication either by Congress or the people of the Territory.

Before this dogma was proclaimed efforts were made to get the Constitution extended to these Territories by act of Congress. Failing in those attempts, the difficulty was leaped over by boldly assuming that the Constitution went of itself—that is to say, the slavery part of it. In this existency Mr. Calhoun came out with his new and supreme dogma of transmigratory function of the Constitution in the ipso facto and the instantaneous transportation of itself in its slavery attributes into all acquired territories. transportation of itself in its slavery attributes into all acquired territories.

#### Mr. Benton says further in this connection:

History can not class higher than as the vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution does nothing of itself-noteven in the States, for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a Territory unless imparted to it by act of Congress.

Therefore I say, Mr. President, first, according to this authority (and I do not think any Senator can successfully dispute it or contradict it). we never had this doctrine in the politics of this country until the exigency of slavery made it necessary that such doctrine should be relied upon with respect to the New Mexican debate, and then it was brought forward by Mr. Calhoun for the first time, as Mr. Benton says, and. as Mr. Benton characterized it, as merely "the vagary of a diseased imagination." Whether it is or not I do not pretend to say; I am simply quoting what Mr. Benton saw fit to say about it.

Now, Mr. President, that being the case, it can not be contended that anybody recognized the Constitution as in force in these Territories until Congress by express legislative act extended it there. They could not have recognized it as in force in Missouri, for there they took the trouble to legislate into their act the Bill of Rights of the Constitution, which would have been unnecessary if the Constitution had been regarded as extending ex proprio

Now, Mr. President, in the case of Missouri and in all these Territories the officers were appointed by the President. was no election so far as the local officials were concerned, but there was an election in all of them of a Delegate to the Congress of the United States: and in every instance the officers appointed by the President were required to take an oath to support the Constitution of the United States, although it was not extended to the people they were governing. The Delegates to Congress were required to take oaths to support the Constitution of the United States, although they had been elected by a people over whom the Constitution had not extended.

Now, I say this amounts to a conclusive argument, so far as precedent is concerned, to show that in this bill there is nothing

to take an exception to.

The hour of 5 o'clock having arrived the Senate took a recess until 8 o'clock.

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## PORTO RICO.

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It belongs to the United States, but is not the United States, nor a part of the United States.

## SPEECH

OF

# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES

APRIL 30, 1900.

WASHINGTON.



#### SPEECH

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OF

### HON. J. B. FORAKER.

The Senate having under consideration the conference report on the joint resolution (S. R. 116) relating to the civil government for Porto Rico, and the act of April 12, 1900, providing a civil government for that island, being criticised—

Mr. FORAKER said:

Mr. President: In view of the criticisms that Senators have made of the legislation that has been enacted for Porto Rico, I ask leave to print in the Record as my answer a speech delivered by me, April 21, before the Union League of Philadelphia on that subject. I ask this rather than detain the Senate at this late hour.

The PRESIDENT pro tempore. Is there objection to the re-

quest? The Chair hears none, and it is so ordered.

#### Union League Speech.

Mr. FORAKER said:

MR. PRESIDENT AND GENTLEMEN OF THE UNION LEAGUE: The criticism of the legislation in respect to Porto Rico has been due to two misapprehensions.

First, as to the attitude of the President in regard to it; and second, as to the legal relation of Porto Rico to the United States.

The President, in good faith, recommended free trade between the United States and Porto Rico, but earnestly favored and personally—as well as officially—approved the bill that has been passed, because, in the first place, its provisions are a substantial and almost a literal compliance with his recommendation, and in the second place, they are far more liberal and generous than his recommendation was, and because, in the third place, in so far as the bill fails strictly to comply with his recommendations, there was a necessity therefor, recognized by the President and all engaged in framing the legislation that has been enacted. The President, in his message, used this much-quoted language:

Our plain duty is to abolish all customs tariffs between the United States and Porto Rico, and give her products free access to our markets.

When he made that recommendation he had reference to what had occurred and the then existing conditions. Before Porto Rico was ceded to us she traded almost entirely with Spain and Cuba; but when the cession occurred, both Spain and Cuba closed their ports against her products, except on payment of tariff duties that were so high as to be practically prohibitive.

The President, as Commander in Chief during the military occupation, could control the tariff duties levied on imports into the island, but had no power to alter those imposed by law on imports into the United States. In consequence our ports remained closed

to Porto Rico except on payment of full Dingley rates of tariff, as were those of Spain, Cuba, and the rest of the world, and, as a result of it all, the war took from Porto Rico the markets she had and gave her none in return. This occasioned complete business stagnation and paralysis. Idleness prevailed everywhere, and soon tens of thousands were in want, and suffering for the necessaries of life.

#### THE PRESIDENT'S INTENT.

This condition was relieved slightly by an Executive order that placed all food supplies, implements of husbandry, machinery, etc., on the free list going into Porto Rico; but matters were constantly growing worse, when, on the 8th day of August, 1899, the island was visited by a hurricane that devastated the coffee plan-

tations and did great injury to all kinds of property.

By this course of events the people had been brought to absolute poverty and despair when the President wrote his message. What he had in mind was not any great principle or legal right or obligation, but practical and speedy relief for a suffering and starving people. It occurred to him that the greatest and speediest measure of relief would be realized by giving them free access to our markets.

He thought that would be kind, generous, liberal, and helpful to them, and he favored it for that reason. But in that message the President also pointed out the necessity of providing for Porto Rico a civil government to take the place of military rule, and

recommended immediate action in that respect.

Both recommendations were general in their nature; both were made with full knowledge that action on the part of Congress could not be taken until an investigation might be made, and that the results of that investigation would, of course, control and determine the exact character of action to be taken.

Accordingly, when these recommendations were referred to the appropriate committees of Congress, they entered upon the work of investigating the conditions and general situation in Porto

Rico for which they were to legislate.

As a result they found that the President was correct in saving that a civil government should be at once established. On many accounts this necessity was imperative, and they found that this government would require for its support not less than about \$3,000,000 annually.

They found also that an additional million dollars would be required to support the municipal governments of the island,

making an aggregate of not less than \$4,000,000.

They found that the total valuation of property of all kinds situated in the island would not exceed, for taxation purposes,

\$100,000,000.

They found that this property was already burdened with a private debt, evidenced by mortgages on record to the amount of about \$26,000,000 of principal, with an accumulation of several years' interest at extravagant rates, that swelled the sum to probably \$30,000,000.

They found, in short, that poverty, bankruptcy, and ruin pre-

vailed everywhere.

#### THE SITUATION AS GENERAL DAVIS SAW IT.

The following extract from the official report of General Davis is a true picture of the situation as the committee found it, except that it had become still worse in the six months that elapsed after the report was written and before the bill was passed. General Davis said:

It does not require a demonstration to show that the industrial conditions

It does not require a demonstration to show that the industrial conditions existing before the hurricane, bad as they were, are excellent by comparison with those resulting from the storm.

Formerly but two-thirds of the labor that sought employment at 30 cents, American money, per day, could secure it, and now not one-third of the labor is employed at any rate of pay. A hundred thousand or more individuals are being fed from the bounty of the American people.

In some localities where the municipal government was feeble and the

are being fed from the bounty of the American people.

In some localities where the municipal government was feeble and the town councils did not command respect (and I am sorry to say these towns are not few in number), no collections whatever of taxes can be made. Some who could pay will not, because of their belief that the contributions will be squandered; others make this belief a pretext for nonpayment, and many others who were well off have no means whatever with which they can support their families.

ort their families.

The coffee lands suffered worst. These trees are planted on the hill and the coffee lands suffered worst. The dealightes are very abrunt. The mountain slopes, and in many places the declivities are very abrupt. The gale tore up the trees, loosened the soil, and the deluge of water converted

the earth into a semifluid.

#### RUIN SPREAD BROADCAST.

Then followed landslides, and thousands of acres of coffee plantations slid down into the valleys; trees, soil, rocks, and every vestige of culture are piled up in the bottom of the valleys. In such cases there is no restoration possible, for where there were smiling groves are now only bald rocks, which were uncovered by the avalanthes.

Where the soil was not distributed the west of the coffee trees.

were uncovered by the avalan hes.

Where the soil was not disturbed the most of the coffee trees were either uproted, broken off, or stripped of foliage and the immature berries. The larger trees of other varieties, which are habitually grown for shade to the coffee, were blown down, and their protection to the coffee trees is also gone; so where the trees are not wholly denuded the protection of the berries from the sun's heat is absent, and the green fruit is blighted and spoiled.

It will take five years to reestablish these coffee vegas, and there will be necessarily years of want and industrial paralysis. The municipal governments are many of them prostrate. The police can not be paid, the prisoners can not be fed, and the schools must be closed if not wholly supported from the itsular treasury.

the insular treasury

From every town and village I am appealed to for financial help, donations; loans are asked, implored even, and the alternate of chaos is predicted as the result of refusal. Proprietors beg for financial help, and the homeless for rehabilitation of their dwellings.

#### IMPORT DUTIES THE ONLY HOPE.

The committee further found that no system of property taxation was in force in the island, or ever had been, and that it would require at least a year, and probably two years, to inaugurate one and secure returns from it, and that, inasmuch as the people had no familiarity with such a system, it would be difficult, probably, to enforce it, at least for a time.

The committee also found that the public revenues of the island, except only such as were raised by a burdensome and complicated excise tax on incomes and business vocations, had always been chiefly raised by duties on imports and exports, a system

with which the people were therefore familiar.

The committee further found that this system was already in operation, and that revenues were then and constantly being collected, upon which, so far as they went, the government could at once depend.

The committee further found that our internal-revenue laws, if applied in that island, would prove oppressive and ruinous to many

people and interests.

Thousands of persons in that island, as the testimony shows, are engaged in the manufacture of cigarettes and cigars in a small way; and rum, which is almost universally used-not so much as a beverage as for other purposes-is a species of distilled spirits which is sold in almost every store, grocery, and public place. To undertake to collect our heavy internal-revenue taxes-far heavier than Spain ever imposed—on these products and vocations would be to invite violations of law so innumerable as to make prosecutions impossible, and to almost certainly alienate and destroy the friendship and good will of that people for the United States.

The committee also found that the coffee grown in Porto Rico is of the highest grade and quality, and that it has always been protected by a tariff duty high enough to keep out of Porto Rico the cheap and low grades of coffee grown in Central and South America. We do not grow coffee, and therefore we admit it into the United States free of duty.

#### EPITOMIZATION OF SITUATION.

Here, then, to recapitulate, was the situation:

A civil government was a necessity. It must have \$3,000,000 for its support, and the municipalities must have at least one million

There was no system of direct taxation of property in operation. There was no time to establish one. Moreover, if there had been time, such a system would have entailed upon that people an impossible burden.

Four per cent, or even 3 per cent, is too burdensome a tax rate to impose on the property of even the most prosperous State in the Union. To impose it on Porto Rico would mean only disaster, failure, bankruptcy, and despair.

In view of these considerations, we decided, first, that we would find some way to exempt the people of that island from the direct taxation of their property, such as every other State and Territory of the Union has always been subjected to. The generosity of this proposition was far greater and more helpful than that recommended by the President. No such favor has ever been shown to

any other people for whom we have legislated.

We next decided, for the reasons already given, that we would not, for the time being, undertake to apply and enforce our internal-revenue laws in the island, but, except on merchandise imported into the United States, we would exempt the people of Porto Rico therefrom—another unprecedented favor, never before shown to anybody-and, in the third place, we decided that we would protect their coffee, which constitutes their chief industry and amounts to more than two-thirds of their exports, from injurious competition by levying a duty of 5 cents a pound on all coffee imported into Porto Rico; and then, finally, we determined that there should be collected on all goods imported into Porto Rico from foreign countries tariff duties as provided by the tariff laws of the United States; but that, instead of turning this money over to the National Treasury for the benefit of the United States as we have always heretofore done to every other Territory, we would turn it over to Porto Rico for the benefit and support of its government.

We then found, according to the best estimates we could make, that when all this had been done there would remain a large de-

ficiency, amounting to from \$1,000,000 to \$1,500,000.

#### TAX REDUCED, NOT PUT ON.

The question, then, was how further we could raise revenue without directly taxing the property of the island to meet this deficiency; and we found that we could, in our opinion, best accomplish this by leaving a light tariff duty upon the commerce between the United States and Porto Rico; and so we finally concluded, and provided in the bill that instead of absolute free trade, which all desired, as well as the President, we would for a short time, until the local government could be put in operation and devise a system of taxation for its support, reduce the tariff on dutiable goods coming from Porto Rico into the United States only 85 per cent, instead of entirely remitting it, and that we would, for the present, allow all food products and necessaries of life, farm implements. machinery, etc., to enter Porto Rico free of duty; but on other articles, whatever they might be, we would reduce the Dingley rates only 85 per cent. You hear constantly of our putting on commerce with Porto Rico a tariff of 15 per cent, when the truth is we removed all but 15 per cent. We did not add or increase, but reduced and remitted.

We expressly provided, however, that on and after March 1, 1902, there shall be absolute free trade between Porto Rico and the United States, and that there shall be such free trade sooner—in a year, six months, or ninety days, possibly—whenever the local government shall have provided otherwise for its necessary revenues, and that, in the meanwhile, all collections, both those to be made in Porto Rico and those to be made in the United States, shall be paid over to Porto Rico for the support of its government without placing an additional burden upon the already overbur-

dened lands and property of the island.

No such liberal and generous government as to revenues was ever given by this nation or any other to any Territory or colony. It far surpassed all recommendations and all expectations. It should be further stated that an analysis of the articles constituting this trade shows that this tax so imposed would be borne almost exclusively by the sugar and tobacco interests, more able than any others to bear it without feeling any burden.

#### DEMOCRACY'S WRONG POSITION.

Our Democratic friends said, "The Constitution follows the flag," and that we were violating that instrument; that it required that duties, customs, and imposts should be uniform throughout the United States, and, consequently, we could not have free coffee here and protected coffee there; internal-revenue taxation here and no such taxation there; that we could not collect tariff taxes there, except as here, for the common benefit of the whole country; and that Porto Rico being a part of the United States, we could not collect tariff duties on commerce between there and here any more than between New York and Pennsylvania.

I think they believed what they said; and, no matter what happens, I think they will always believe it; but I think, nevertheless, they were wrong about it, just as they were wrong when they contended in 1861–1865 that there was no constitutional power to preserve the Constitution, and when a year ago they contended that we could not acquire territory, even by discovery or conquest, except with the present intention of ultimately admitting it to

statehood.

But, however that may be, we answered that, in our opinion, Congress had power to govern these new acquisitions, and if so, it must be a power to govern them according to the varying conditions of each; that if the best interest of Porto Rico required a duty on coffee we ought to be able to give it or surrender the island; that if the destitution and poverty of the people of that

island were such as to require an exemption of their property from taxation, we ought to be able to grant it or confess our incompetency to govern; that if the necessities of the new government required that tariff duties collected in the island should be paid to it for its support, we ought to be able so to provide; and that if the duty on commerce between there and here would be advantageous to the island, we ought to be able to legislate accordingly; and we not only contended that, in the nature of things, we should have such power, but that we do have such power, and that our position is fortified not only by reason, but also by authority.

The argument was long, it was exhaustive, it was convincing to the majority, and the legislation followed. It is unnecessary and impracticable to review it here, but suffice it to say that the radical, basic difference in the whole matter lies at the very beginning—as to whether or not Porto Rico is a part of the United

States.

#### TRUE STATUS OF PORTO RICO.

I have observed that not only the Democrats but many Republicans have assumed the affirmative of this proposition to be true. Such is not the case. Porto Rico belongs to the United States, but it is not the United States, nor a part of the United States.

When we acquired Louisiana, Florida, New Mexico, etc., it was provided in the treaty in each case that the inhabitants should be incorporated into the Union of the United States and be admitted to all the rights, advantages, and immunities of citizens of the

United States.

The act by which we annexed Hawaii declares in express terms that the Hawaiian Islands shall become and be a part of the United States. But no such provision was incorporated in the treaty of Paris as to Porto Rico and the Philippine Islands; and if there had been, it is safe to say that treaty would never have been ratified. On the contrary, for the purpose of making it clear that no such consequence was intended, it was provided in the treaty that—

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.

This provision was insisted upon by our commissioners and was necessary to the ratification of the treaty, because we had then too little knowledge of the people of the Philippines and not enough of those in Porto Rico to know whether it would be wise or desirable to incorporate them into our body politic and extend to them the privileges and immunities of American citizenship and undertake to govern them under the Constitution and subject

to its restraints and requirements.

The Constitution provides that a treaty shall be a part of the supreme law of the land. This provision gave to Congress an undoubted right to incorporate the inhabitants of these islands into the Union of States, as was provided in the Louisiana, Florida, and Mexican treaties, or to leave them outside, as it might deem advisable; to make them citizens of the United States or withhold from them that quality; to impose on them the same burdens of taxation that are imposed on the people of the States and Territories of the United States or different burdens—heavier or lighter; to require them to pay internal-revenue taxes or not pay them; to give them free trade with us or to restrict it, for all these matters enter into and constitute their civil rights and political status.

#### THE POWERS OF CONGRESS.

In other words, the Congress had plenary power over the whole subject by the terms of the treaty itself; but Congress had this same power under the Constitution.

The third section of the fourth article provides:

Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

It will be observed that the Constitution, by the language of this provision, draws a distinction between the United States and territory belonging to the United States, and that it places territory belonging to the United States on a par with "other property," so far as the power of the Congress to deal with it is concerned. Congress can sell or give away—"dispose of"—territory that simply belongs as property to the United States, but no one has ever pretended that the Congress has power to sell or part with any portion of the United States.

Congress must govern the United States according to the Constitution, which is the organic law of the Union, but it can govern a territory that simply belongs to the United States as it may think best, restrained only by the positive prohibitions of the Constitution and the general spirit of our institutions, which is

above all written law.

In providing government for such territory Congress may enact that the Constitution shall extend to it, or, rather, that it shall have force and effect therein, to use a more accurate expression.

In such case the Constitution, in so far as applicable, would be a rule of action to be observed there the same as in any State, but in the absence of such action by Congress it would not have there such force and effect.

This doctrine has been clearly established by repeated decisions of the Supreme Court of the United States, as I understand them, and has been uniformly acted upon in all legislation for our Ter-

ritories since the beginning of our Government.

In the early Territorial legislation the Constitution was not extended to or given force and effect in the Territories by Congress, and all legislation proceeded on the theory that in consequence the Congress was not limited or restrained by its requirements, except as already indicated.

Since 1850 it has been the practice "to extend" the Constitution to Territories, a clear recognition of the fact that without such

action it does not so extend.

We have heard much in the recent discussion about the Constitution extending, ex proprio vigore, to newly acquired territory

at the moment of its acquisition.

This doctrine originated with John C. Calhoun and was advocated by him for the first time in the debates preceding the legislation establishing the Territorial governments for New Mexico, Arizona, and Utah, and he advocated it in the interest of human slavery, to carry that institution into those Territories.

#### EXTENSION OF CONSTITUTION.

Thomas H. Benton, in his Thirty Years in the United States Senate, on page 713, Volume II, has this to say of the origin of this doctrine, its purposes, and its character:

A new dogma was invented to fit the case—that of the transmigration of the Constitution (the slavery part of it) into the Territories—overriding and overruling all the anti-slavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication, either by Congress or the people of the Territory. Before this

of eradication, either by Congress or the people of the Territory. Before this dogma was proclaimed efforts were made to got the Constitution extended to those Territories by act of Congress; failing in these attempts, the difficulty was leaped over by boldly assuming that the Constitution went of itself—that is to say, the slavery part of it.

History can not class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution. The Constitution does nothing of itself—not even the States for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a Territory unless imparted to it by act of Congress.

#### FOLLY OF DEMOCRATIC POSITION.

Mr. Benton is none too severe in his comments. If the Constitution had such migratory powers it would involve us in all kinds Territory once acquired of embarrassments and weaknesses. could never be parted with, because a part of the United States, no matter how undesirable it might prove. If, instead of stopping when we did in the Spanish war, we had gone on and taken Spain itself, it would have been no longer Spain, if we had concluded to hold it, but the United States, to be governed according to our Constitution, no matter how inapplicable and unsuited to that people its provisions might be.

If we should discover a new country, the mere act of planting the flag and taking possession would make it a part of the United States, to be governed by the Constitution, no matter how unfit

its inhabitants for such government.

You have only to pursue the subject to multiply absurd conse-The truth is, our fathers intended, in all matters, and quences. particularly in so vital a matter as the acquisition and government of territory, that our Government should have complete sovereign power—should be the full equal in power of any other

sovereign power on earth.

They so declared in the Declaration of Independence when they proclaimed that "These United Colonies are and of right ought to be free and independent States; that they are absolved from allegiance to the British Crown, and as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

Such was their declared purpose, and the Constitution gave effect to that purpose by conferring on the National Government the power to declare war, conclude peace, make treaties, and make all needful rules for the government and disposition of territory

belonging to the United States.

Pursuant to these powers, and in the exercise of them, we had We were successful. We invaded and captured war with Spain. her territory. We concluded peace, and, as one of the conditions, exacted a cession to the United States of Porto Rico, the Philippines, and Guam. All came to us by the same title. All stand in the same legal relation, unaffected by the fact that some came willingly and others resisting our authority.

#### LIMITATIONS OF OUR POWER.

Therefore it follows if Porto Rico is a part of the United States, so are the Philippines. If the Constitution is in effect in Porto Rico as a result of mere acquisition, so is it in effect in the Philippines. If duties, imposts, and excises must be uniform in Porto Rico as compared with the United States, so must they be in the Philippines. If the Porto Ricans are citizens of the United States, so are the Tagalos, the Sulus, the Igorrotes, the Negritos, and all the other numerous tribes and peoples of the archipelago.

If we can not protect coffee in Porto Rico, we can not protect hemp, sugar, tobacco, or anything else in the Philippines. If we can not exempt Porto Rico from internal-revenue taxes, we must compel their payment in Luzon and Mindanao. If we can not levy tariff duties on goods going into Porto Rico from the United States, we can not levy them on goods going from here into the Philippines. If we can not tax goods coming from Porto Rico into the United States, we can not tax goods coming here from the Philippines. Whatever we can or can not do in the one case is and must be the measure of our power in the other.

The legislation that has been enacted for Porto Rico raises all these questions, and it is fortunate that it does, for sooner or later, and the sooner the better, they must find their way to the Supreme Court of the United States, where, and where alone, they can be authoritatively settled. I have my opinion as to what the court must hold, but others have a contrary opinion, and they have so read and interpreted the authorities as to support their views.

For two years and more we have been arguing these questions and discussing the decisions bearing upon them without other

apparent effect than to confirm differences.

Party lines have now been drawn with respect to them, and the one view or the other will prevail, so far as the political department of the Government is concerned, accordingly as the one

party or the other party is in power.

This will continue until the only tribunal that can settle it in a way binding upon all has spoken. The consequences are so momentous and so far-reaching as to make it highly important that we have this settlement at the earliest convenience. We have reached the point in the development of our resources and the multiplication of our industries where we are not only supplying our home demands, but are producing a large surplus, constantly growing larger. Our greatest present and prospective commercial need is for markets abroad. We can not find them in the countries of Europe. Their demand upon us is limited. They strive to supply themselves and to compete with us in the markets of the world. Our opportunity (and theirs also) is in the Far East.

In China, Japan, Korea, the Straits Settlements, Australasia, and Oceanica there are from 600,000,000 to 800,000,000 people with

whom the rest of the world has just begun to trade.

Our competitors recognize that this commerce, now only fairly begun, will grow rapidly to hundreds and then on to thousands of millions annually. Russia, Germany, France, and England are all striving to secure their full share, and only recently there were indications that some of these nations were not only willing but intending to take it all. It seemed as though the door was to be closed against us, but now it has been happily settled otherwise.

#### WHAT M'KINLEY HAS DONE.

Many great deeds of both war and peace stand to the credit of the Administration of William McKinley, but there are few, if any, greater in far-reaching good to the American people than has been accomplished by the diplomacy that has secured for us an open door to the markets of China. Through his wisdom, foresight, and statesmanship it is now assured that we are to have an even chance for our full share of that great commerce, and that is all we ask with respect to it.

The skill of our artisans and the ability of our merchants, manufacturers, and representatives will do the rest. For many years

to come we shall have customers for all that we can produce. What this makes possible in development, in power, in wealth, in happiness, in glory, and honor to the American people and the American name no language yet employed has exaggerated.

But an open door to China means an open door to the Philippines or a mean and niggardly refusal to grant what we have so generously demanded and so gloriously secured, and an open door to the Philippines means that the ships and merchandise of other countries shall enter the ports of those islands upon the same terms and conditions that our own ships and merchandise enter them.

If the Philippines are a part of the United States, and the Constitution is already in force and effect there, ex proprio vigore, simply because the flag is there, and if, on this account, we can not levy a tariff duty on our merchandise going into the Philippines, then, of necessity, it must go in free of duty; and if we enter free of duty, then everybody else who is to share the opendoor policy with us will also, of right, enter free of duty; and if, when there in the Philippines, they are already within the United States, on the theory that they are a part of the United States, instead of a mere possession belonging to the United States, then indeed are we undone; for in such case it must follow that no tariff duties can be levied on articles coming from there here, even for the purpose of revenue; and thus an open door to the Philippines would prove an open door for the whole world to the whole United States.

To avoid the force of this result it has been suggested that all talk about an open door to the Philippines is mere speculation. That is not true. It is not speculation. While it is true that we have it within our power to refuse, it is not within our power to avoid meeting the question, and as soon as the insurrection has been suppressed and a civil government has been established, we

must pass upon it, either to grant or refuse it.

If we should grant it and then find out that the position the Republican party has taken as to the power of Congress, as exercised in the Porto Rico case, is untenable, we would have made a mistake against which there would be no ability to relieve except only by a radical change of policy with respect to the whole

subject.

But those who say that talk about an open door is speculative lose sight of the fact that, by the terms of the treaty of peace, Spain already has, for the next ten years, an open door to the Philippines, and if it should turn out that we can not levy duties on our products going into the Philippines, neither can we levy duties on goods from Spain going into the Philippines, and whatever may be said as to the right of other nations, under "the most-favored-nation clause" of our treaties with them, to enter with their ships and merchandise on the same terms accorded Spain, it can not be doubted that Spain, and through her other countries, can ship into the Philippines without limitation, and from there here, without restriction or duty of any kind, except only such as we have power to impose on what comes from the Philippines here in our own ships, in our own commerce with those islands, and that would mean free entry for Spain into the whole United States, and for all others who might make of Spain and the Philippines an open door. On this point there is no speculation, but only serious reality

All this might be elaborated, but I have said enough to indicate the considerations that controlled the legislation for Porto Rico.

#### PORTO RICANS HELPED.

It was never expected that our Democratic friends would be able to both understand and appreciate it, but certainly all Republicans ought to be able to see the necessity and the wisdom of what has been done, and that, instead of having been discriminated against, the Porto Ricans have been favored in the matter of taxation with the most liberal and general provisions that have ever been made for anybody by our Government, while at the same time our own interests have been protected against all possible contingencies.

In every respect this legislation is commendable. Some of the opposition newspapers have been claiming that the civil government provided for concentrates too much power in the hands of the President. 1 do not remember that any Democratic Senator made any such criticism. On the contrary, they very generally approved the bill in that respect; but without regard to that fact, the truth is that, by comparison, it will be seen that the civil government provided for Porto Rico is far more liberal than were any of the early Territorial governments established for our own people, and quite as liberal as our responsibilities will allow.

The first Territorial government established after the adoption of the Constitution was for Louisiana, and in that case all executive, legislative, and judicial power was lodged in the appointees

of the President, who was made absolutely autocratic.

That was under Thomas Jefferson, who was certainly thoroughly Democratic. The same was true of the Territorial governments of Florida, Mississippi, Alabama, Arkansas, Missouri, and

others, on down until the days of Republicanism.

The people were not allowed to choose any of their officials under these Territorial governments. It has been only in later years, and under Republican rule and legislation, that they have been allowed a partial participation in the conduct of their governments. ments. Even to day in our Territories, inhabited by our own people, familiar with our institutions and the spirit of our laws, and accustomed to governing and capable of doing so, the President appoints the governors and the judges and all the principal officials.

#### REPRESENTATION IN LEGISLATURE.

In Porto Rico we allow the people to elect the lower house of the legislature and give them representation by appointment in the upper house and in all other departments of their government.

The provision that the upper house of their legislative assembly shall be appointed by the President is due to the fact that among its members are the bureau officers, upon whom will devolve the responsible duty of organizing all the departments of that government, and upon whom we must rely to make that government as nearly American as possible.

In no other way could we safely proceed to secure the necessary

ability and experience for such work.

Like everything else the Republican party undertakes, we propose to make of this a success—a success for Porto Rico and a success for the United States-and when that has been done we shall only be too glad to increase the participation of the Porto Ricans in the conduct of their government as rapidly as they are found equal to its demands, and nobody will be happier than we when we can give over the whole matter to themselves. I hope and believe that the day is not far distant, but it would not be

kindness to Porto Rico to do that now.

They have in that island about 1,000,000 people. Of this whole number only about 15 per cent can read or write in any language. Only about the same number own any property. This means that there are in that little parallelogram of the sea, about 100 miles in length and 35 miles in width, fully 800,000 men, women, and children who are absolutely illiterate and who are as dependent as poverty can make them. None of them have had any experience in governing themselves, and very few have any conception of what is meant by free popular government according to our ideas and institutions.

#### CHARACTER OF ISLANDERS.

They are of the Latin race, and are of quick and excitable temper, but they are at the same time patient, docile, frugal, and most of them industrious. The children show great aptness and ambition to acquire an education and to learn to speak our language, and all seem anxious to learn our ways and to qualify themselves for the higher and better conditions that await them.

They have never known what it is to have schoolhouses and public instruction. They are almost entirely without highways. Their island has never been developed or improved, but we have made provision under which, during the next twelve months, there will be erected in Porto Rico more schoolhouses than were constructed by Spain during all the four hundred years of her rule, and more roads and bridges and public improvements will be under construction in six months from this time than even the Porto Ricans themselves ever contemplated or desired.

This is the beginning of a new era. It has taken time to provide this machinery, and will take two or three months more to set it fully in operation, but the start, when made, will be a sure one, to be followed by the quickenings of a new life, with new and manifold opportunities for peace, happiness, and prosperity far exceeding any hopes that have been excited or any anticipa-

tions that have been entertained.

When General Miles landed in that island, at the head of our gallant and victorious Army, he made proclamation that he had come not as an enemy, but as a friend, and that the United States would restore to them prosperity and give them the benefits of our liberal institutions of government. The inevitable results of the legislation that has been enacted will constitute a complete redemption of all these promises, and a triumphant vindication of the capacity of the Republican party for that constructive statesmanship so essential to the safe guidance of the Republic in its onward course of expanding growth and power.

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# Protection's Grave Peril

# THE PORTO RICAN BILL AND ITS REAL MEANING.

Free Trade Might Endanger American Labor.

WOULD BE FOLLOWED BY LIKE DEMANDS FOR THE PHILIPPINES AND MIGHT OPEN WIDE THE DOOR TO THE CHEAP LABOR AND PRODUCTS OF THE ORIENT AND OF THE WHOLE WORLD.

# IT DOES NO INJUSTICE TO THE PORTO RICANS.

Far Better Treatment than any Territory ever Received

SENATOR FORAKER REVIEWS THE MEASURE AND DISCUSSES THE PROSPECTIVE EFFECT OF THE PROPOSED LEGISLATION.

Washington:



### PROTECTION'S GRAVE PERIL.

(Contributed Article to Leslie's Weekly.)

The dissatisfaction that has been manifested with the proposed legislation for Porto Rico appears to be based upon the idea that we are dealing illiberally and ungenerously with the Porto Ricans. Nothing could be further from the truth. The fact is that no legislation has ever been enacted for any territory since the beginning of our government that has been so generous and so liberal.

#### Popular Misunderstanding of the Purposes of the Bill.

The people have been misled by a misunderstanding of the purpose of the framers of the bill. They see only the 15 per cent. provision, and are blind to all the rest. In passing judgment on a bill, all its provisions, especially all upon a particular subject, should be taken into consideration.

#### Better Treatment Than the Territories Ever Received.

Always heretofore in our history, and now at this time, in the government of our territories, we have required the people there residing to pay the same internal revenue and tariff taxes that are paid by the people of the United States elsewhere, and always these taxes and duties, when so collected, have been turned into the national treasury at Washington for the equal benefit of the whole nation. No territory has ever been allowed in any instance to keep any part of them.

But in this case Congress has proposed a departure.

#### All Internal Revenue Collected in the Island Goes to Porto Rico.

The people of Porto Rico are required, according to the bill now pending in the Senate, to pay the same internal revenue taxes that are now paid elsewhere in the United States. There is no hardship in that. It is only what all alike are required to do, and the people of Porto Rico do not complain of it. They stated before the committee of the Senate, when a hearing was had, that they expected to pay these taxes; but the bill provides that instead of these taxes being turned into the national treasury at Washington, as has been the case in every other instance, they shall be turned into the treasury of Porto Rico for the sole benefit of that island.

#### All Customs Collected in the Island Go to Porto Rico.

Our general tariff law is extended and applies to Porto Rico, as it has always been to every other territory for which we have legislated in the past, but always heretofore all duties collected on imports into our territories from foreign countries have been turned into the national treasury at Washington for the common and equal benefit of the whole country; but in this instance a departure is proposed on this point also, for the pending bill provides that all tariff duties so collected, instead of being paid into the treasury of the United States, shall be paid into the insular treasury of Porto Rico.

These collections from internal revenue taxes and tariff duties will amount for the first year, it is estimated, to something like two millions of dollars. If we were to follow the rule applied to all the other territories since the beginning of the government, all this sum would go to Washington and none of it to Porto Rico; but under the bill proposed, we give it all to Porto Rico.

#### All Revenue Collected on Commerce With the U. S. Goes to Porto Rico.

When Porto Rico receives all these collections it will still have a deficiency of at least one million dollars as compared with the estimated necessary expenditures. It is sought to raise this deficiency by levying a slight duty on commerce between the United States and Porto Rico. The amount is to be fifteen per cent. of the rates prescribed by the Dingley law on all dutiable articles. But the whole amount collected under this rate, both that which is collected here in the United States and that which is collected in Porto Rico, is to be appropriated for the benefit of Porto Rico without rebate of a single dollar even to defray the expenses of the government, or to pay the salaries of the officials here who make the collection.

#### The Reasons for This Unprecedented Generosity.

All must concede that this is not only without precedent, but that it is liberal and generous to an extraordinary degree. Men do not do extraordinary things without having extraordinary reasons therefor. There are two extraordinary reasons for this proposed action. In the first place, the revenue for the island necessary to conduct its government, establish schools, make needed improvements, etc., amounting, as above shown, to the estimated sum of \$3,000,000 annually, must be raised either in the way provided, or by direct taxation of property. The people of the United States are familiar with our system of direct taxation of property. All local governments in both our States and our Territories are thus supported. In consequence all are not only familiar with the system, but they are also familiar with the great burden these taxes amount to.

The rate of taxation in this country ranges all the way from two to three per cent. on reasonably fair valuations of property up to six or eight per cent. upon unreasonably low valuations, such as they have in some municipalities. The total property of Porto Rico, according to a full valuation, is estimated at about \$150,000,000. Its valuation for taxation would not exceed, if we were to follow the rule that usually obtains in the United States, more than one hundred millions of dollars. This would mean a tax rate of not less than three per cent. upon all taxable property in the island to support the insular government alone. This same property would have to bear an additional rate of taxation to support the municipal governments. For local and all insular purposes the rate would be not less than four per cent., according to conservative estimates.

The question presented to the framers of this bill was, therefore, whether Porto Rico should be remitted to this system of direct taxation for the raising of her revenues, or whether we would give her the revenues derived by the methods of indirect taxation already mentioned, instead of turning the collections into the national treasury. We determined that we would spare the people of Porto Rico this burden of direct taxation by turning over to her the revenues that properly belong to the national government, thus exempting their farms, plantations, houses and lots, and all kinds of personal and real property from direct taxation. I repeat that we have never done anything like this before for any other Territory belonging to the United States. We propose to do it in this instance because of the conditions obtaining in Porto Rico. I cannot better describe these conditions than they were described by General Davis, who has been in command there for more than a year, and who said in his recent report to the War Department that:

"The coffee lands suffered worst. These trees are planted on the hill and mountain slopes, and in many places the declivities are very abrupt. The gale tore up the trees, loosened the soil, and the deluge of water converted the earth into a semifluid.

"Then followed landslides, and thousands of acres of coffee plantations slid down into the valley; trees, soil, rocks, and every vestige of culture are piled up in the bottom of the valleys. In such cases there is no restoration possible, for where there were smiling groves are now only bald rocks which were uncovered by the avalanches.

"Where the soil was not disturbed the most of the coffee-trees were either uprooted, broken off, or stripped of foliage and the immature berries. The larger trees of other varieties, which are habitually grown for shade to the coffee, were blown down, and their protection to the coffee-trees is also gone; so where the trees are not wholly denuded the protection of the berries from the sun's heat is absent, and the green fruit is blighted and spoiled.

"It will take five years to re-establish these coffee vegas, and there will be necessarily years of want and industrial paralysis.

"The sugar industry has suffered much less than the others. Some cane has been uprooted and some has been buried, and many mills have been damaged or destroyed. The margin of profit at present prices to the sugar-grower is small, but there is a margin of probably a half-cent per pound to the manufacturer who has modern machinery; but the old 'Jamaica train' mills, which are badly damaged, will probably never be reconstructed, and the growing cane for next year cannot be ground on such estates unless their owners can negotiate large loans. Many will be unable to do this, so the prediction seems justified that much growing cane will next year be left to rot in the fields.

"The municipal governments are many of them prostrate; the police cannot be paid, the prisoners cannot be fed, and the schools must be closed if not wholly supported from the insular treasury.

"From every town and village I am appealed to for financial help; donations, loans are asked, implored even, and the alternative of chaos is predicted as the result of refusal. Proprietors beg for financial help and the homeless for rehabilitation of their dwellings.

"I can think of but two measures of relief. Neither alone will fully realize that result, and with a combination of the two the recovery will not be immediate. Unless something is done by the invocation of powers beyond my control, I fear that the conditions prevailing will go from what is now extremely bad to a still worse condition, even to the assumption in certain localities of military government pure and simple, with hordes of people dependent for their existence on the bounty of the government of the United Stats and its people.

"I have abstained from any expression of opinion upon this matter until I could have time to investigate the real state of affairs in which the island was left by the calamity, the like of which the people of the United States fortunately have and can have no conception.

"It is with hesitancy that I propose measures of relief that have been hitherto unknown; but our country has by assumption of sovereignty over foreign lands and people incurred responsibilities which cannot be evaded. By the treaty of Paris nearly 1,000,000 inhabitants of Porto Rico have been brought under the laws of the Union. They are unused to American laws and customs, and have had in the past no power of initiation. They were taught and forced to rely upon the government in any and every important undertaking or proposition. They have been thoroughly taught to obey, but know little of self-reliance. It is surprising that the obliteration of one-third of the wealth of the island, other than the soil itself, has been followed with industrial paralysis. So I have to hear the appeals, most piteous appeals, for help from almost every hamlet. They see no way to turn but to the way they have always turned, i. e., to the government, and as its representative here I must hear and dispose of those appeals.

"Many millions of money as loans have been asked by municipalities and individuals. I can only give food for the hungry. Should the supply fail, there would be a famine such as in the past has swept and depopulated large districts in India and China."

#### Revenue Protection by Direct Taxation Impracticable.

This description of the conditions existing in Porto Rico shows that the whole island, although an island free from public debt, is yet nevertheless in a state of practical bankruptcy. They have no money, they have no credit, and they are wholly incapable of meeting a heavy direct taxation such as we will be compelled to resort to if we do not do what the bill under consideration proposes. It was to relieve the people of Porto Rico from this great burden which they were unable to bear that the plan was adopted that is now under consideration. The fifteen per cent., or the twenty-five per cent., which was first proposed, is as badly needed as any of the rest of these revenues, for without it there would still be a deficiency to make up, which would compel a resort to direct taxation, but with it that necessity can be evaded.

#### Other and More Important Reasons.

But aside from this revenue feature, which alone is a sufficient justification, there is an incident of this legislation that is more important than the legislation itself—and that is the question as to the power of Congress to legislate as it may deem advisable. This question should be settled, once for all, by the courts. We must remember, in legislating for Porto Rico, that we took the Philippines by the same cession, and that they stand in precisely the same legal relation to us that Porto Rico does, and that what we can or cannot do as to the one will be true as to the other. We did not take either with a pledge in the treaty, as was the case when we acquired Louisiana, Florida, and other territory, that they and their inhabitants should be incorporated into the Union, but with the express stipulation that the Congress should fix the civil and political status of the inhabitants. We are, therefore, not only under the Constitution,

but also under the treaty, fully empowered to legislate as we may see fit. It is simply a question of what is right.

#### Its Relation to Our Future Philippine Policy.

We have been demanding and are being accorded an open door in China and the far East, but who so simple-minded as to imagine that we can receive an open door in the East by the agreement of other Powers of the world and not, in return, be asked to accord an open door in the Philippines? That is one of the inevitable questions of the future we will have to in due time answer.

But what is meant by an open door? Simply that the ships and merchandise of other nations shall go into the ports of the Philippines on precisely the same terms that our ships and merchandise go there.

#### Might Mean Free Trade With the Whole World.

If, therefore, we should accord an open door in the Philippines, and it should be subsequently determined by a decision of our Supreme Court that we have no power to levy duties upon our goods going into the Philippines, upon the theory that they are an integral part of the United States and that the Constitution ex proprio vigore extends and applies to them, it would follow that all the ships and merchandise of other nations could also enter there without payment of any duty whatever, and that when once entered there they would be within the United States, and no duty could be imposed upon the same goods coming from there here. In other words, if the Congress has no power to levy duties upon exports from this country to the Philippines, and upon exports from there to the United States, an open door in the Philippines would mean ABSO-LUTE FREE TRADE with the United States as to all nations con-

cerned; not simply free trade in the sense that we could not levy a protective tariff duty, but free trade in the sense that WE COULD NOT LEVY AGAINST SUCH NATIONS EVEN A REVENUE TARIFF. This would be attended with results of such momentous and disastrous consequences that it would be nothing short of stupid criminality for us to run any such risk.

I have confidence, and so have my Republican colleagues, in the proposition that the Constitution does not extend proprio vigore to these acquisitions, but only by Congressional action, and that until we so extend the Constitution we are at liberty to legislate for them unrestrained by its provisions. But most Democratic Senators are of the opposite opinion, and we have in the discussion reached the point where it is useless longer to cite authorities and decisions of the Supreme Court in support of our respective views. Those who have the one view are proof against all authorities and arguments of those who entertain the other, and vice versa.

The result is that the question of the power of Congress to legislate with respect to these acquisitions, and the further question of their true legal relations to us, will never be settled except by the Supreme Court of the United States, and it is a part of wisdom and a commanding duty, looking to the future, to take advantage of the opportunity now presented in legislating for Porto Rico to have all these questions adjudicated by the courts, to the end that we may know whether we can grant an open door in the Philippines, or if not, what policy we can safely pursue in regard to them.

#### Our Doors Must Not Be Opened to Cheap Labor.

Those who have been opposing the annexation of the Philippines have been insisting that one of the consequences will be that the cheap labor, and the products of the cheap labor, of the Philippines will be brought into competition with the wage-workers of America and their products, and that there is no power in Congress to prevent this very undesirable result; and the organized labor, and the leaders of organized labor throughout the Union have been justly apprehensive on this point. We owe it to them, as well as to all the industries, and all the people of the United States, not to evade necessary legislation, but rather to rejoice that opportunity is presented to have these questions of such far-reaching consequences settled, at once and forever, in the only authoritative way in which they can be settled.

#### It Ought to be Loyally Supported by All Classes.

These are, briefly and imperfectly stated, some of the reasons for, and some of the results of, the legislation that is proposed. It is all in the best interest of Porto Rico in the first instance, and of the whole United States in the second. Instead of having the criticism, it should have the commendation and the loyal support of all who are interested in the promotion of our common welfare.

J. B. FORAKER.

# SPEECH

OF

# SENATOR FORAKER

RENOMINATING

# PRESIDENT MCKINLEY,

IN

## NATIONAL REPUBLICAN CONVENTION,

PHILADELPHIA, JUNE 21, 1900.

Mr. Chairman and Gentlemen of the Convention: Alabama yields to Ohio, and I thank Alabama for that accommodation. Alabama has so yielded, however, by reason of a fact that would seem in an important sense to make the duty that has been assigned to me a superfluous duty, for Alabama has vielded because of the fact that our candidate for the Presidency has, in effect, been already nominated. (Applause.) He was nominated by the distinguished Senator from Colorado when he assumed the duties of temporary chairman. He was nominated again yesterday by the distinguished Senator from Massachusetts when he took the office of permanent chairman; and he was nominated for a third time when the Senator from Indiana yesterday read us the platform. (Applause.) And not only has he been thus nominated by this convention, but he has also been nominated by the whole American people. (Applause.)

From one end of the land to the other, in every mind only one and the same man is thought of for the honor which we are now about to confer, and that man is the first choice of every other man who wishes Republican success next November. (Applause.)

On this account it is that it is not necessary for me or any one else to speak for him here or elsewhere. He has already spoken for himself (applause), and to all the world. He has a record replete with brilliant achievments (applause), a record that speaks at once both his promises and his highest eulogy.

It comprehends both peace and war, and constitutes the most striking illustration possible of triumphant and inspiriting fidelity and success in the discharge of public duty.

Four years ago the American people confided to him their highest and most sacred trust. Behold, with what results.

He found the industries of the country paralyzed and prostrated; he quickened them with a new life that has brought to the American people a prosperity unprecedented in all their history.

He found the labor of the country everywhere idle; he has given it everywhere employment. He found it everywhere in despair; he has made it everywhere prosperous and buoyant with hope.

He found the mills and shops and factories and mines everywhere closed; they are everywhere now open. (Applause.) And while we here deliberate they are sending their surplus products in commercial conquest to the ends of the earth.

Under his wise guidance our financial standard has been firmly planted high above and beyond assault, and the wild cry of sixteen to one, so full of terror in 1896, has been hushed to everlasting sleep alongside of the lost cause, and other cherished Democratic heresies, in the catacombs of American politics. (Applause.)

With a diplomacy never excelled and rarely equaled he has overcome what at times seemed to be insurmountable difficulties, and has not only opened to us the door of China, but he has advanced our interests in every land.

Mr. Chairman, we are not surprised by this, for we anticipated it all. When we nominated him at St. Louis four years ago, we knew he was wise, we knew he was brave, we knew he was patient, we knew he would be faithful and devoted, and we knew that the greatest possible triumphs of peace would be his; but we then little knew that he would be called upon to encounter also the trials of war. That unusual emergency came. It came unexpectedly—as wars generally come. It came in

spite of all he could honorably do to avert it. It came to find the country unprepared for it, but it found him equal to all its extraordinary requirements. (Applause.)

It is no exaggeration to say that in all American history there is no chapter more brilliant than that which chronicles, with him as our commander-in-chief, our victories on land and sea. (Applause.)

In one hundred days we drove Spain from the Western Hemisphere, girdled the earth with our acquisitions and filled the world with the splendor of our power. (Applause.)

In consequence the American name has a greater significance now. Our flag has a new glory. It not only symbolizes human liberty and political equality at home, but it means freedom and independence for the long-suffering patriots of Cuba, and complete protection, education, enlightenment, uplifting and ultimate local self-government and the enjoyment of all the blessings of liberty to the millions of Porto Rico and the Philippines. What we have so gloriously done for ourselves we propose most generously to do for them. (Applause.) We have so declared in the platform that we have here adopted. A fitting place it is for this party to make such declaration, here in this magnificent city of Philadelphia, where the evidences so abound of the rich blessings the Republican party has brought to the American people. Here at the birthplace of the nation, where our own declaration of independence was adopted and our Constitution was framed; where Washington and Jefferson and Hancock and John Adams and their illustrious associates wrought their immortal work; here where center so many historic memories that stir the blood, flush the cheek, and excite the sentiments of liberty, humanity, and patriotism is indeed a most fitting place for the party of Lincoln and Grant and Garfield and Blaine (applause); the party of Union and Liberty for all men to formally dedicate themselves to this great duty.

We are now in the midst of its discharge. We could not turn back if we would, and would not if we could. (Applause.) We are on trial before the world, and must triumphantly meet our responsibilities, or ignominously fail in the presence of mankind.

These responsibilities speak to this convention here and now, and command us that we choose to be our candidate and the next President—which is one and the same thing—the best fitted man for the discharge of this great duty in all the Republic. (Applause.)

On that point there is no difference of opinion. No man in all the nation is so well qualified for this trust as the great leader under whom the work has been so far conducted. He has the head, he has the heart, he has the special knowledge and the special experience that qualify him beyond all others. And, Mr. Chairman, he has also the stainless reputation and character, and has the blameless life that endear him to his countrymen and give to him the confidence, the respect, the admiration, the love and the affection of the whole American people. (Applause.)

He is an ideal man, representing the highest type of American citizenship, an ideal candidate and an ideal President. With our banner in his hands it will be carried to triumphant victory in November. (Applause.)

In the name of all these considerations, not alone on behalf of his beloved State of Ohio, but on behalf of every other State and Territory here represented, and in the name of all Republicans everywhere throughout our jurisdiction, I nominate to be our next candidate for the Presidency, William McKinley. (Applause.)

## SPEECH

OF

# SENATOR FORAKER

AT OPENING OF

# REPUBLICAN MASS MEETING,

YOUNGSTOWN, OHIO, SEPTEMBER 8, 1900.

SENATOR FORAKER spoke as follows:

Mr. Chairman and fellow-citizens: The paramount issue of this campaign is the administration of William McKinley. Shall it be indorsed or repudiated? That is the question.

Money, tariff, trusts and so-called imperialism are, each and all, important subjects, but no one of them can be segregated from the others and be voted upon by itself. In other words, the Democratic party cannot be restored to power as to one proposition and be excluded from power as to others. It must go in "foot, horse and dragoons," or not at all.

You cannot adopt its views as to the Philippines without at the same time accepting free silver. You cannot agree with it about trusts and differ as to "government by injunction." The proposition that "the Constitution follows the flag" is coupled with free trade, and their lamentations about the Declaration of Independence and the consent of the brown men who are to be governed in the far distant isles of the sea are coupled with a defiant nullification of the Constitution, and a brutal denial by violence, rapine, blood, and murder of the most sacred rights of the negro citizens of the nation who have periled their lives for the flag and with gallant heroism won honor and renown for the Republic on the battlefields of the nation. To make a long story short, you cannot vote a

mixed ticket or have a mixed result. You must choose between Republicanism on the one hand and Democracy on the other—not Democracy in this, that or the other particular, but Democracy in all particulars. It is therefore the duty of every voter to survey the whole field and then, with the net result in mind, determine whether the present Administration shall be continued. It should be enough that this Administration is Republican.

#### THE DEMOCRATIC PARTY.

Our experience with Democracy has been more than unsatisfactory. It has been disastrous. There are many wise, capable and patriotic men in that party, but the party as such somehow lacks capacity for the successful administration of public affairs. This is no new thing. Such has been the case since long before the war. The following extract from the annual message of President Buchanan shows the deplorable state to which Democratic policies and incapacity had reduced us in 1857. He said:

"We have possessed all the elements of material wealth in rich abundance, and yet, notwithstanding all these advantages, our country in its monetary interests is at the present moment in a deplorable condition. In the midst of unsurpassed plenty in all the productions of agriculture and in all the elements of national wealth, we find our manufactures suspended, our public works retarded, our private enterprises of different kinds abandoned, and thousands of useful laborers thrown out of employment and reduced to want."

We have only to recall the distress that overtook the country in the last administration of Mr. Cleveland to show that, if possible, the latest effort of Democracy was even more unfortunate than that of Buchanan. Business paralysis, commercial ruin, idleness and despair, with loss of credit, both public and private, overtook and almost destroyed us because of what Democracy, in its lack of statesmanship and general incapacity, undertook to do for the country.

The truth is that the Democratic party has been on the wrong side of every great question for more than fifty years.

Slavery was abolished, the Union was preserved, the Constitution was amended, our finances were re-established, specie

payments were resumed, our credit was restored and prosperity was made universal by the Republican party, not only without the help of the Democratic party, but in spite of its bitter and determined opposition.

In all these great measures, and through all these eventful years, the Republican party has shown the highest order of statesmanship, and a capacity for public affairs equal to every emergency. It has been constructive and aggressive in all its policies and purposes, and by "arduous work done" has gained the confidence of the country and led us steadily onward as a people, until to-day we stand at the very front of all the nations of the earth.

According to familiar principles, this record entitles us to preference not only to continue approved policies, but also and more particularly to solve new and difficult problems.

Tested by practical arguments and considerations, the same result follows.

Certainty as to our government and its policies is of the highest importance. We know what the McKinley administration is. Who knows what a Bryan administration would be? No one can even intelligently speculate. Democrats are themselves hopelessly divided as to what would follow their success in November.

Mr. Bryan stated in his Indianapolis speech that, if elected, his first official act would be to call an extra session of Congress to carry out his views, and he asked for votes on that account; but Mr. Bourke Cockran, one of the ablest and most representative Democrats in the whole country, in his letter to the "Sons of Liberty," assembled a few days after Mr. Bryan's utterance, in the same city of Indianapolis, appealed to that body to support Mr. Bryan on the ground that, if elected, he would be powerless, because of a Republican Senate, to secure any legislation that would embody his heresies and vagaries. Mr. Cockran is willing to see Mr. Bryan elected because he thinks he cannot do worse than throw the nation into a deadlock, and what Mr. Bryan and Mr. Cockran have thus respectively set forth fairly represents the differences among Democrats generally. Some

want Mr. Bryan elected that he may do certain things, and others want him elected upon the theory that he cannot do those things, because a Republican Senate will remain to stand between the country and the country's danger.

The trouble with the Democratic party is that it lacks sincerity and harmony of purpose; therefore, when it occasionally gets into power, it necessarily proves incapable to redeem its own pledges, and as a result brings upon the country a distrust that paralyzes business, robs labor of employment, turns trade balances against us and impairs national credit.

Republican ascendency means, and always has meant, the very opposite. This is forcibly illustrated by recent events.

#### McKinley's Administration.

President McKinley was elected four years ago to do certain specific things that the Republican party thought would benefit the country. He has done them, and the whole country has profited in consequence.

His party meant what it said when it made its promises, and the President has been able to redeem those promises because he had a united and sincere party behind him.

It is something to have kept the faith. It is conclusive to have been vindicated by results.

Experience shows that when the Republican party makes a promise it means to keep it, and that when it does keep it good results will follow, and that when the Democratic party makes a promise it may or may not keep it, accordingly as its discordant elements may or may not be able to act in harmony; and that, whether it keeps it or not, the country is the loser.

Such is the party. What are the professions upon which we are now asked to restore it to power?

#### FREE SILVER.

In the first place we have a repetition of the platform of 1896 in favor of the free, unlimited and independent coinage of silver at the ratio of 16 to 1. This plank does not stand at the head of the column, as it did formerly, but it is there and it means just what it says. It is not inserted as a makeweight or a mere platitude or glittering generality, but as an all-im-

portant, live, active declaration, without which Mr. Bryan announced he would not accept the nomination. It is true that the convention did not want to insert it, and that it was adopted in the committee on resolutions, after a long and bitter fight, by a majority of only one vote, and that one vote was the vote of Hawaii, the annexation of which the Democratic party did all it could to prevent. But Mr. Bryan's insistence won the day and the resolution was adopted, and although the whole Republican party and at least one-half of the Democratic party, making, it is safe to estimate, three-fourths of the whole of the American people, are opposed to it, yet who can doubt but that if elected Mr. Bryan would in utter disregard of the "consent of the governed," try to force his folly into the statute books, as he forced it into the Democratic platform.

But, however this might be, we are again called upon to meet this question, and we must meet it as we met it in 1896. If our verdict was right then, it would be a calamity to reverse it now.

There was some room for argument in 1896, and much was then said in favor of free silver that seemed plausible. We had hard times, and it was natural for a free trade Democrat to believe that it was the gold standard, when his leader told him so, and not free trade that made the trouble. It was then with many only a theory, and one theory may be claimed as good as another, until exploded by practical results; but there is no longer excuse for theorizing.

Mr. Bryan dealt with opinions then—facts are dealing with him now. See with what result.

#### PREDICTIONS.

He told us that if we adopted the gold standard, the hard times then prevailing would continue and grow worse. We rejected his advice and unexampled prosperity has blessed the land. He said prices would fall still lower, but, instead, they rapidly rose. He said our railroads would all be bankrupt, but, instead, they have more business than they can handle. He said we would become a hopeless debtor nation, owing all the world, and compelled to depend on

the money markets of Europe to float our securities, but, instead, we have seen foreign nations, including England herself. selling their bonds in American markets to American citizens, who are paying for them with American money worth one hundred cents in gold all over the world. He said our foreign commerce would languish, and the balances of trade would be against us, but instead we have never traded so much with other nations. and the balances of trade in our favor were never so large. He drew direful pictures of the scarcity of money, and told how it would curtail and handicap and embarrass business, but, instead, the volume is steadily increasing, and the amount per capita is now the largest we have ever had. He was filled with distress because of the fate that would befall the farmer if he could not be allowed to pay off his mortgages with 50-cent silver dollars, and told with great emotion how the farmer's farm and his home would be sold under the hammer, but, instead, the farmer has shared in the unusual prosperity, and with the good prices commanded by his products, he has paid off more mortgages than were ever before canceled in the same length of time. The railroads cannot get cars enough to handle the corn, the wheat and other agricultural products that are hunting markets in this and other lands. Such illustrations might be multiplied, but these are sufficient to show that what the country needed in 1896 was not free silver, on top of free trade, as recommended by Mr. Bryan, but a protective tariff and a gold standard, as recommended by President McKinley, and promised by the Republican party. In the presence of these undisputed, practical, everyday facts the predictions and the statesmanship of Mr. Bryan appear indeed ridiculous. Notwithstanding, he now comes again before the American people asking to be placed at the head of our Government.

Not, however, on the free silver proposition, for although he has not abandoned it, he recognizes that the American people have condemned it. Not, either, as a free trader, for while he still adheres to that belief, he knows the country has not yet forgotten the distress that attended our last experience with that policy. Neither on any other proposition we have had occasion to debate during the last twenty-five years. All these

great subjects of political difference in the past are, if not conceded to be finally settled, at least ignored for the purposes of this campaign.

#### IMPERIALISM.

He has a new shibboleth—it is imperialism. He affects to believe that President McKinley is trying to subvert the Government; that he is destroying the republic and establishing an empire. It is in this way he refers to what we have done in Hawaii, Cuba, Porto Rico and the Philippines. What are the facts?

#### HAWAII.

Was the acquisition of Hawaii an act of imperialism? The people there had already overthrown a monarchy and established a republic, modeled after our own. They had the same system of jurisprudence, the same codes of procedure in their courts, the same system of schools. For years they had been celebrating the Fourth of July and Washington's birthday. They have a post of the Grand Army of the Republic and they observe Memorial Day as sacredly as we do in the States. For more than fifty years such statesmen as Webster, and Clay, and Blaine, and Harrison have favored the annexation of these islands, because, by reason of what I have referred to, they would easily assimilate, and because, commercially and strategically, they are of manifest importance to the United States. They applied for annexation under the Harrison administration and a treaty was negotiated and sent to the Senate; but the first thing Mr. Cleveland did was to recall the treaty and haul down our flag, which was already flying. When President McKinley came into office the Republic of Hawaii renewed its request to be annexed to the United States, and, responding to the overwhelming sentiment of the country, annexation was consummated. It came about as naturally as the acquisition of Louisiana, or Florida, or California, and belongs with us quite as properly; and how has Hawaii been governed?

Not arbitrarily, not tyrannically, not like a dependency of an empire, having no rights the ruler bound to respect, but it has been created a Territory of the United States and has been given precisely the same government in effect, if not in all its details, that all our Territories enjoy. Nobody in Hawaii is conscious of any imperialistic exercise of power or trend of events so far as those islands are concerned. They are all rejoicing that they are under our flag and in the enjoyment of our free institutions. Would Mr. Bryan undo all that, and haul down our flag again? If so, for what purpose except only to restore monarchy?

#### CUBA.

What are the facts as to Cuba? Most reluctantly the President consented to go to war with Spain to secure the independence of the people of that Island. The war was brilliantly successful and Spain was ejected. We were in a position to do as we liked; we had possession with an army and navy flushed with victory and irresistible, but they were there only to protect and help the weak—not for empire.

When we entered upon that intervention we gave a pledge to the Cubans and the whole world that as soon as the islands could be pacified we would withdraw and leave the Cubans to a government of their own selection. Already under our guidance and with our help municipal governments of their own choice have been established and are now in operation throughout all that country, and an election has been ordered to choose delegates to frame a constitution and establish an independent republican government, which this country will not only recoguize but in every way strengthen and support. In both spirit and letter our promise will be kept, and that people will soon realize and enjoy the independence for which they have struggled so long and so bravely. Surely this does not look like land grabbing or a greedy grasping for power; but rather that the President is, in a safe, steadfast way, trying to carry out the wish of the American people and promote the highest good of the Cubans.

#### PORTO RICO.

Porto Rico was acquired in response to the universal sentiment of the whole American people, and of that people as well. The time had come for Spain to quit the Western Hemisphere,

and Porto Rico naturally fell to us as a provision of the treaty of peace. The people of that Island are, however, of the Latin race. They have a different system of jurisprudence; they are acquainted only with the civil law; their codes of procedure are unlike ours. They do not know what free, popular government is. They are total strangers to trial by jury, and the writ of habeas corpus, and never heard of the Bill of Rights.

Not more than ten to fifteen per cent. of the population can either read or write. Although their island is fertile, we found them in utter poverty and despair. Not hundreds or thousands, but tens of thousands of men, women and children were without work and without food, and starving. They had no system of education and no system of property taxation to support the government. When we acquired Louisiana and Florida, and other territory, including Hawaii, it was expressly stipulated that the territory should become a part of the United States and that the inhabitants should be incorporated into the Union, but in the case of Porto Rico and the Philippines it was not so stipulated, but on the contrary, it was provided that the civil and political status of the inhabitants should be determined by the Congress of the United States. This was done in recognition of the fact that the people of these islands were not vet fitted to govern themselves or to help govern us. The Congress therefore legislated for Porto Rico, unrestrained by treaty stipulations. Much has been said in criticism of that legislation. All such criticisms are unwarranted.

The government we gave Porto Rico, instead of being harsh and ungenerous, is the most generous and least burdensome government that has ever been provided by the United States for any Territory since the beginning of the Republic. More generous by far than we gave to Louisiana or Florida, or California, and under that government the people of Porto Rico are now entering upon a career of prosperity and happiness greater than they have ever known. It is true that the President appoints their governor and their judges, but he makes the same appointments for New Mexico and Arizona, and has done so for every other Territory we have ever had. It is true that the President appoints the upper house of the assembly, but for all

the earlier Territories he appointed both houses, and it has been only in late years and under Republican rule that the people of our present Territories have been allowed to elect their legislative assemblies, and this privilege has been allowed them because they are of our own race and civilization, fully acquainted with our institutions, and equally as well qualified as the people of the States to discharge that duty.

It is true that the Porto Ricans are required to pay full tariff duty on all importations from countries other than the United States, but the people of every Territory we have ever acquired have been required to do the same thing—with this difference, that the people of Porto Rico are allowed to keep the duties so collected and use them for the support of their own government, while the duties collected in every other Territory-Louisiana, Florida, Washington, Oregon-have been turned over to the National Government at Washington for the support of the whole nation. It is true that duties equal to fifteen per cent. of the rates prescribed by law are paid on certain articles of commerce between the United States and Porto Rico, but it is also true that every cent so collected goes, not into the treasury of the United States but into the treasury of Porto Rico for the support of the Porto Rican government; and this provision continues in force only two years, until a system of taxing property similar to our own may be devised and put into operation, until which time there was no other way for the Porto Ricans to raise sufficient revenue to support their government.

It is also true that while the people of every other Territory are required to pay internal revenue taxes the same as the people of the United States, the people of Porto Rico have been exempted from that burden. All these provisions are unprecedented in the history of our legislation, and all these exceptions to the rule that has heretofore prevailed in legislating for Territories have been made that we might generously relieve the people of Porto Rico in the hour of their weakness, their poverty and their despair, from the burdens of directly taxing their own property for the support of their government, and at the same time give them a system of revenue that would enable them to meet the expenses that must be incurred.

Already good results are everywhere manifest. Where we

found want, idleness, poverty and destitution, business has commenced, employment is being found and the people are be ginning to command money, credit and food. It takes time to change such conditions, but we are rapidly supplying all their wants and happiness, contentment and prosperity will soon be within the reach of all.

#### THE PHILIPPINES.

Consider now the Philippines. There was a difference of opinion as to whether we should acquire them, but all were agreed that Spain should relinquish her sovereignty there. If so, somebody had to succeed to the title. The Filipinos themselves said that if we simply drove Spain out and came away they would fall into the hands of the European nations, and their last estate, because of the divisions that would ensue. would be worse than their first. The only way to prevent that was to take control ourselves. The President reluctantly reached this conclusion, for he foresaw the serious responsibilities involved in such action. The treaty of peace so provided, and the Senate, with the help of seventeen Democratic votes, ratified it, and it received the seventeen Democratic votes because Mr. Bryan, and a large number, if not the majority, of the Democratic party advised and advocated the ratification. But before the treaty was ratified the insurrection commenced. It was the duty of the President, under the protocol then in force, to suppress it and preserve order. Before the ratifications were exchanged Congress had adjourned without legislating on the subject. The President was left in charge of that country as he is in charge of all other territory over which our jurisdiction extends. It was his duty, under the Constitution and laws of the land, to maintain our authority and to use all necessary force. This he has done: nothing more, nothing less. If he had done more there might be some excuse for talking about abuse of power; if he had done less Mr. Bryan would be talking now about articles of impeachment instead of imperialism.

If President McKinley had pursued such a policy as Mr. Bryan is now proposing to enter upon, if elected President, he would have been branded as a weak betrayer of his trust and as responsible for a great national

humiliation. If you have any doubt about this, you have only to turn back to the expressions of Democratic newspapers and Democratic leaders at the time when our trouble in the Philippines commenced, to learn that these men who are now talking about hauling down the flag, giving the Filipinos independence and making peace on any terms, were then more imperialistic and bleodthirsty and tyrannical, as indicated by the advice they gave, than President McKinley has ever even been charged by them to be.

Here is an extract from an editorial of that time published in the Cincinnati Enquirer:

"Aguinaldo will have to behave himself. The country will take no backward step. The Spaniards have hinted that we are dealing with people that will have to be exterminated to keep them from making trouble. Well, we cannot stop now even at extermination."

This paper is now talking about the "consent of the governed," and, instead of exterminating the Filipinos, it is trying to exterminate President McKinley.

The New York Journal said:

"Aguinaldo's men are now attempting to carry out a program of savagery. They are making war by incendiarism and assassination, and if they could gain possession of Manila a carnival of slaughter, rapine and conflagration would horrify the world. We must crush this band of incendiaries and assassins once for all. Aguinaldo and his followers are simply Indians, and must be dealt with as we would deal with a tribe of renegade Apaches."

To this paper, the ablest Democratic organ in the United States, Aguinaldo and his "Indians" have become the "George Washington and his patriots of the Orient."

Richard Croker, the great Tammany leader, gave out a statement published in all the papers in which he said:

"I believe in holding whatever we have gained by annexation, purchase or war. \* \* \* If the great country west of the Rocky Mountains were filled with wild Indians, how long would it take us to suppress them and make them respect our laws and Constitution? The same thing applies to the Filipinos and any other country that may fall into our hands by the providence of peace or war."

Other quotations from leading Democratic newspapers and Democratic leaders might be made to the same effect, almost without number. But these are enough to show that our Democratic friends not only joined us in ratifying the treaty and acquiring the Philippines and assuming the responsibility of government there, but also advised the President to adopt and pursue in the discharge of his duties precisely the policy for which they now arraign him, except only that the policies of "extermination," "renegade Apaches" and "wild Indians," which they advised, were far more bloody and imperialistic than the policy of the President.

Why this change? It is easily explained. They spoke as patriots then; they speak as partisans now. inconsistency is so manifest that Mr. Bryan seeks to justify himself for advising a ratification of the treaty and now condemning the President's policy on the ground that he expected the President, as soon as the treaty was ratified, to announce to Aguinaldo and his followers, notwithstanding they were in arms against us, that he proposed as soon as he had established a stable government to give them their independence under an American protectorate. Mr. Bryan forgets. He could not have expected any such thing; because, in the first place, war with the Filipinos had already commenced before the treaty was ratified, and every act of the President was a declaration that, until the insurrection was ended, nothing else was in order; and, in the second place. Mr. Bryan was aware that the President had already, in the hope of avoiding any clash with the Filipinos, announced his policy by a proclamation, promulgated by General Otis in the previous December.

This proclamation set forth a liberal and generous plan of government, and declared that our flag and authority would be upheld throughout the Philippine Islands until Congress could have opportunity to legislate. This explicit declaration was not only made, but it met the approval of Democrats as well as Republicans.

The New York Journal said of it:

"President McKinley's proclamation to the people of the Philippines, through General Otis, ought to secure the hearty co-operation in our work of regeneration. The President promises them all they hoped to win in their revolt against Spain. President McKinley promises that civil and municipal government shall be carried on as far as practicable by officers chosen from the inhabitants of the Island, and if, in performing this work of civilization, American blood should be shed, the position of our anti-expansionists would not be enviable. The first shot fired against the American flag would make domestic opposition to the measures of our Government overt treason."

If it was overt treason for those who were opposed to the treaty to oppose the policy of suppressing the insurrection before legislating, how are we to characterize the action of those who advised ratification and now oppose that policy?

If there has been any imperialism it was in accepting our title to the Philippines and the assertion of our authority and power there in the first instance, and all that had the approval of Mr. Bryan. Since this policy was entered upon, nothing more has been done than to prosecute it with vigor. If it was right to undertake the suppression of the insurrection it surely is right to finish the work; and if we are, according to Mr. Bryan's program, to establish a stable government in the Philippine Islands before we leave there, or establish a protectorate, surely we must first end the war; and I do not know how the President can do more in that behalf than he has already done by the amnesty proclamation which he has issued, promsing pardon to all who have been engaged in the insurrection who will surrender and respect our authority. The President has no authority to go beyond this. Only Congress can promise independence and abdication, and Congress has had two years of opportunity to speak, but has refused, or at least failed, to make any such promise.

Mr. Bryan recognizes that he would not have, as President, any power to promise independence and surrender the counfit as an inducement to peace, and therefore it is that he announces that he will convene Congress in extra session as soon as he is inaugurated. But what would Mr. Bryan do if Congress when thus convened should refuse to adopt his recommendation, as he knows beforehand the Senate, at least, would do. Would he then haul down our flag and withdraw our troops anyhow? Or would he go forward with army and navy, as President McKinley is doing, to enforce peace and thereafter

establish government? It would not be possible for him, unless authorized by Congress, to pursue any other policy than that which President McKinley is pursuing; and it is fortunate for the country, if there is the slightest danger of his election, that such is the case, for that policy will stand the test of the severest analysis.

The President has defined that policy in his last annual message better than any other man can state it.

He says:

"The future government of the Philippines rests with the Congress of the United States. Few graver responsibilities have ever been confided to us. If we accept them in a spirit worthy of our race and our traditions, a great opportunity comes with them. The islands lie under the shelter of our flag. They are ours by every title of law and equity. They cannot be abandoned. If we desert them we leave them at once to anarchy and finally to barbarism. We fling them, a golden apple of discord, among the rival powers, no one of which would permit another to seize them unquestioned. Their rich plains and valleys would be the scene of endless strife and bloodshed. The advent of Dewey's fleet in Manila Bay, instead of being, as we hope, the dawn of a new day of freedom and progress, will have been the beginning of an era of misery and violence worse than any that has darkened their unhappy The suggestion has been made that we could renounce our authority over the islands and, giving them independence, could retain a protectorate over them. This proposition will not be found, I am sure, worthy of your serious attention. Such an arrangement would involve at the outset a cruel breach of faith. It would place the peaceable and loval majority, who ask nothing better than to accept our authority, at the mercy of the minority of armed insurgents. It would make us responsible for the acts of the insur gent leaders and give us no power to control them. It would charge us with the task of protecting them against each other and defending them against any foreign power with which they chose to quarrel. In short, it would take from the Congress of the United States the power of declaring war and vest that tremendous prerogative in the Tagal leader of the hour.

"It does not seem desirable that I should recommend at this time a specific and final form of government for these Islands. When peace shall be restored it will be the duty of Congress to construct a plan of government which shall establish and maintain freedom and order and peace in the Philippines."

This is the language of a statesman. It is language befitting the Chief Magistrate of a great nation. It shows not a purpose to exaggerate official power, but a conscientious desire to faithfully discharge an official duty. It is not the language of a man who would destroy the character of his Government and subvert our popular institutions, but it is the calm, deliberate, clear-headed and kind-hearted expression of a man who is concerned only to promote the best interests of his country.

The work of establishing civil government is already far progressed. We owe it to ourselves, the world, and especially the Filipinos to complete it. When peace reigns and we can act intelligently, Congress will legislate and everybody knows, including Mr. Bryan, that we shall deal most generously and beneficently with that people, and that at the earliest moment possible we will give them under our flag and authority complete self-control, and all the blessings of a republican form of government.

Recent events have demonstrated the advantages of these possessions, and the folly that their abandonment would involve. Had we not been in the Philippines, we would not have headed the column for Pekin, but being there we were enabled to do a conspicuous service for all the civilized powers.

For generations the cheeks of Americans will mantle with pride as they read of our part in that great world work. Such work is not ended. The slow processes of time are fast reaching their culmination. Every student of history and current events knows that in that far Eastern country is located the scene of the world's greatest activity for years to come.

Our presence there is most fortunate, not alone for ourselves, but also for the other nations. We are the one conservative force so favored with the confidence and respect of other governments that we can restrain and guide to just results the great transitions that are impending. We have the post of honor in the onward march of the world. To hold it involves responsibility and duty; to abandon it shame and humiliation.

We cannot recede; we must go forward. We have the strength of a giant and the opportunity of the centuries. The great duty of the hour is to show that we are worthy of both,

# SENATOR FORAKER.

### FULL TEXT OF HIS GREAT SPEECH

# Unanswerable Reasons for November Success.

#### [Editorial.]

The great speech delivered in Dayton by Senator Foraker inpressed his hearers as the most complete outline of the important facts covering the period) preceding and leading up to the Spanish war, the principal features during the war period, and the various details comparatively few have definitely grasped bearing upon the formal settlement with Spain and the incumbent ensuing responsibilities and unavoidable obligations. was so concisely and fascinatingly and graphically related that many expressions of regret were heard that they could not get it in printed form to preserve. It has been our good fortune to have gotten hold of a verbatim report of it taken down by a shorthand expert, Mr. Charles Hall, and turned over to us for publication in to-day's Journal for the benefit of those wanting it. It is only necessary to recur to the patience and deathlike stillness of that big audience in the tent throughout the entire time it took in delivery—one hour and fifty minutes—to recall its effect upon his hearers. It is difficult to remember when any audience in Dayton ever stood so quiet and patient for so long a time to hear a public speaker at an open meeting. When he had finished they demanded more, and his hurried departure for the train alone satisfied the crowd that continuation was impossible.

Colonel Nevin briefly introduced the senior Senator from Ohio as follows:

The Chairman, Col. R. M. NEVIN:

My Fellow-Citizens—There need not 'any of you attempt to follow Governor Roosevelt (from the tent) because he will be driven as fast as the horses can go to the station. You may as well sit here a little while and listen to the speaking. (Cries of "Foraker, Foraker!") I said to you, my fellow-citizens, awhile ago that the American citizens have courage and that they love a manly man, and I say to you now that there is no more courageous man in this world than Ohio produces in its senior Senator, Joseph B. Foraker.

SENATOR FORAKER spoke as follows:

Mr. Chairman and Fellow-Citizens—It must be manifest to all that it will be impossible for me to be heard unless you keep the most perfect quiet. I intend, therefore, to talk just as you give me opportunity and not otherwise. (A voice: "Good!") When you get ready I will go on.

I congratulate you upon this magnificent audience and this triumphant demonstration you have given here to-day in this city of Dayton. It shows that you are determined that on the 6th day of next November there shall be an end to Bryan and Bryanism in American politics. (Great applause.) It shows that you appreciate that what William J. Bryan represents and promises to do if he ever gets into the Presidency—(A voice: "He won't ever get in!") is a threat and menace to the prosperity of the country and the honor and glory and the good name of the American Republic, and that you don't intend to have that danger continue any longer than the law requires, and that is no longer than until election day comes. What you propose in this regard reminds me of a story I heard somewhere a few days ago, and have told elsewhere some place, but I want to repeat here again as I am now reminded of it. It is a story they tell about a son-in-law who heard of the death of his mother-in-law. A telegram came to him announcing that while she was absent from home on a visit death had suddenly overtaken her, and the telegram enquired whether they should embalm, inter or cremate. He answered, "Embalm, inter and cremate." (Laughter.) He didn't want to take any chances. You don't want to take and don't intend to take any chances. We are going to embalm him; we are going to burn him, and we are going to bury him, and all for the good of this country. (A voice: "Good.") And for the good of Democrats as well as for the good of Republicans. (Applause.)

My Democratic friends, all the days of our political life the Republican party has been serving you as well as its own membership. We saved the Union for your benefit as well as our own. All the great legislation that has followed in the years since has been for your benefit as well as ours. We saved you in 1896 from the free-silver craze, and brought prosperity for Democrats as well as for the Republicans of this country. And in this year 1900 we intend to re-elect William McKinley and continue that prosperity for your benefit as well as ours. You owe us a debt of gratitude which I am sure you appreciate, although you don't always acknowledge it. (Laughter.) Now, consider a moment. What was it we were concerned about in 1896? Governor Roosevelt has already called to your mind-if that was at all necessary-the conditions that then obtained throughout this country. We had, as he told you, unbounded and universal prosperity in 1892, but the Democratic party wanted to down the capitalist, as he put it; wanted to have a change, as others put it; and the result was, after a long campaign, the election of that year went Democratic. Straightway the prosperity of the country went Democratic also. (Laughter.) Everything went Democratic. (Laughter.) The mills went Democratic, the factories went Democratic. (A voice: "So did the farmer." Labor went Democratic, and, as somebody down in the audience suggests, the farmers went Democratic. The sheep went Democratic. (A voice: "Yes, we cut their throats, all.") And that condition of things continued until 1896 came, and in 1896 the question was not so much a question of the man or a question of party as how we could so vote as most surely to restore prosperity to the American people. We had a country just as broad, a country just as fertile; our resources were as abundant, our opportunities

were as great; and yet everywhere we had business stagnation and business paralysis. How could that condition of things be remedied? That was the great question with every American voter in 1896. With that condition obtaining, that question uppermost—paramount—to use the Democratic expression of this campaign, in the mind of everyone, Mr. Bryan came before the American people and with that confidence for which he has become notorious announced that he knew exactly how to remedy that trouble: how to drive away hard times and bring prosperity in their stead; and so we listened to hear what his remedy was. He said the way to do that was to simply add free silver to free trade. He said that would do the business—and it would have done it without doubt. (Laughter.)

Governor Roosevelt has called your attention to the fact that in that connection Mr. Bryan made some predictions. Measured by subsequent results he doesn't seem to have been an anointed prophet or a successful one in any sense. (Laughter.) He told us, as you remember, as Governor Roosevelt has reminded you, that if we did not accept his proposition and put this country on a free-silver basis, the hard times then existing would continue indefinitely and grow constantly worse and worse. He told us that prices then so low would continue to sink lower and lower until they would go clear out of sight, I suppose. (Laughter.) He told us that this great country of ours would become a hopeless debtor nation; that the balances of trade in our foreign commerce would be all against us and grow constantly larger and larger until to pay them all the gold in the country would be drained away; and he told us that if we had occasion to issue Government bonds and sell Government securities, as we always have to do when there is a Democrat in the White House (laughter), and had been compelled to do two or three different times under Grover Cleveland, that we couldn't sell them at home, but only in England, France, Germany, or some other foreign country, or foreign money market. It was a doleful, distressing picture that he painted. Well, now, my fellow-citizens, we heard him through; we heard his remedy; we heard his predictions; we heard his

arguments; and, then, if my memory serves me right, we rejected his proposition at the polls and accepted instead William McKinley, a gold dollar and a protective tariff. (Great applause.)

Now, what is the result? The hard times didn't continue, but they vanished; the mills again started; the factories commenced once more to run; labor was again called to employment; the farmer once more had a home market, and business activity commenced all over this land; and from that day unto this the American people have enjoyed a prosperity unprecedented not only in our own country, but without a precedent in all the history of the world. (Cries of: "That is right, right!" Applause.)

The balances of trade didn't go against us. On the contrary they have been constantly not only in our favor, but growing without anything like a precedent in all our knowledge. Only during the last year the balances of trade in our favor in our commerce with other nations amounted to more than \$550,000,000, and every dollar of the \$550,000,000 had to be paid to us and was paid to us by the other nations of the earth who owed us, in dollars worth one hundred cents all over the earth. (Good.) No fifty-cent dollars in that.

And now as to the matter of selling our securities abroad, he didn't predict correctly either; for, instead of our having to go abroad to sell our securities, almost all abroad have been coming here to sell theirs. (Laughter.) Never before in the history of this country have we afforded a money market in which to float the securities of other nations; never, until William McKinley's administration commenced; such a thing had never been heard of. But during the last twelve months we have started into that business—been expanding a little. (Laughter.) First, there came Mexico. She said: "We are a close neighbor; we have been in the habit of selling our securities in England and elsewhere. We are in pretty good condition down there now, but we want to issue some bonds and sell them and we would like to know if we couldn't sell them here in the United States," and we took every dollar she offered. And that seemed to set an example that other nations took a hint from and in a little while there came little Sweden and she wanted to sell some government securities. and Americans took every dollar she offered. great Russia came and she says: "My war chest isn't as full as I would like it to be; I have some obligations here; I want to sell them for gold," and American citizens took every one she offered. And then came Germany and asked if we could accommodate her with twenty-five millions of gold, and she had no sooner offered than we furnished it. And last came, not Satan, but England also (great applause), the old moneylender of the earth. She never had to go away from home to borrow money before, not for hundreds of years, but when she got into trouble down in South Africa and needed to raise fifty millions of dollars and do it quickly, she appealed to the United States to take half the amount, and it took us just one hour and thirty minutes to subscribe the whole amount three times over.

And so it is, my fellow-citizens, that as Mr. Dolliver once said, "Bryan couldn't have missed it worse in his predictions than Noah would have missed it had he predicted a drouth instead of a flood, and had made preparations for irrigation instead of building an ark." (Great laughter.)

Now, this is a grand chapter. It has been written, my Democratic friend, for you as well as for us: it is something that you ought to be proud of as well as we; it shows the character of business we have been doing for you. Ah, but says some Democrat—that might have happened if Mr. Bryan had been elected. Every Democrat in this country knows it couldn't have happened if he had been elected. If he had been elected and a Democratic Congress with him and this country had been put on a silver basis, we would have been hobbling along, not in company with England and Russia and France and Germany, and all the great civilized powers of the earth, but with China and Mexico (laughter), in company with old Li Hung Chang and Li Tung Chow and Li Sing Feng, and all the other infernal Li-ars in the Celestial empire. (Great laughter.) The truth is, my fellow-citizens, Mr. Bryan's proposition was simply fatally wrong; and as he was fatally wrong in 1896, so, too, is he fatally wrong in 1900. (A voice: "That is right!")

Now, my Democratic friends, let me stop here for a minute to make an appeal to you. The average Democrat is all right; he wants to be patriotic; he wants to see his country prosper; he wants his party to be successful in the administration of all public affairs, when now and then once every fifty years, probably, they get into power. But while he wants all this, it must be patent to him that somehow or other this modern Democratic party is so constituted that it hasn't the requisite business sense to successfully govern this country. They are not only wrong in 1900, but they have been wrong with respect to all great questions that have concerned the American people for the last fifty years; have not been right once. (A voice: "Always wrong.")

During this fifty years the American people have written one chapter after another of the most brilliant history ever recorded in favor of any nation—a union preserved, a rebellion suppressed, the heresy of secession shot to death on the battlefields of the republic, the Constitution preserved and perfected, slavery abolished, a race enfranchised, our finances rehabilitated and the best system of finance given to our people they have ever enjoyed, the protective tariff policy inaugurated, upheld and enforced until the development of our resources and the multiplication of our wealth and power have placed us at the very head of all the nations of the earth. Great deeds are these; arduous works done, are they; brilliant achievements, all of them. And yet, my Democratic friends, you can't find in all these chapters of brilliant history one single deed recorded to the credit of the Democratic party. Not one. (Applause.) All accomplished without your help and in spite of your opposition. (A voice: "That is right.") Don't you think it is about time for you to get out of a party that keeps you constantly on the wrong side of every great question? Time you are getting over into a party that is always right? You have got about three weeks left. (Laughter.) Don't put it off to the last minute, but come now. (Laughter. Great hurrahs.) I do not say this reproachfully, but in sorrow and with regret for your hard political fortune. (Laughter.) Get into one of these clubs that marched here in

the city of Dayton this afternoon; how happy they all seemed; they appeared to be on good terms with the flag of our country and with such music as "The Star Spangled Banner" and "America." (Applause.) (A voice: "Nevin is elected now!") Yes, somebody over in the audience has made a suggestion that I may as well make response to here and now as at any other time—I didn't come here to-day because I imagined there was the slightest necessity for anybody to say a word for William McKinley—there isn't, he is already triumphantly reelected President. (Applause.)

But, my fellow-citizens, we want William McKinley's second administration to be as brilliant and successful as his first administration has been. It cannot in the nature of things be so unless while we are electing him we also elect a Republican Congress to carry out his will. (A voice: "That is right!") (Applause.) According to the election of 1898, we had a majority in the lower house of Congress of but 13. We increased that a little by turning a few fellows out on contest. (Laughter.) But since that time, my fellow-citizens, that has occurred in the South to which Governor Roosevelt referred. In the States of Louisiana and North Carolina they have adopted constitutions, or rather amendments to them, the avowed purpose of which is to exclude from the ballot-box every black man in those States. (A colored man: "Yes, sir; yes, sir!") In consequence of their trampling the Constitution and the consent of the governed under their feet in Louisiana and North Carolina, they will reduce, or take away from us, rather, about ten members that were elected from Southern States.

That makes it pretty close as to the House of Representatives, and that brings home to this Third district of Ohio in a most impressive way the fact that it has a duty not only as a constitutent part of Ohio to help give William McKinley our electoral vote, but as a Congressional district, to send Robert M. Nevin to Congress to sit as your Representative. While they are taking away from us in the South by fraud, by violence, by murder, and by annulling the Constitution, representation to which we are entitled, let us make up for it by keeping every Democrat home from Congress who aspires to go

there from the North. (Applause.) You have here what has been classed as a close district. I have nothing to say against the men personally who, as Democrats, have represented you. I am quite willing to concede that they are desirable acquisitions to your community in a social point of view and I recommend that you keep them here where you can enjoy them. (Laughter.)

But, my fellow-citizens, what does Dayton or Montgomery county, or this Third district need of a Democrat down at Washington? Why, he will be out of harmony with the President; out of harmony with the Senate, and out of harmony with all the political universe. To let the Democrats get a majority in the House of Representatives would be simply to deadlock this government for the next two years and that would be a disaster second only to the election of Bryan himself. I appeal to you, therefore, my fellow-citizens,-I appeal to you Democrats who believe in continuing the prosperity of this country, who believe in upholding the glory and honor of our flag and maintaining the good name of the republic, to remember not only your duty to Mc-Kinley, but also your duty to Nevin. (A voice: "Yes.") And I notice with a great deal of satisfaction that there is another old Highland county boy's name on your ticket here in the person of Judge Charles W. Dustin. I want to see him re-elected, too. He has served you faithfully. (A voice: "We will get more of them.") Yes, I want you to make it a clean sweep from McKinley at the top down to the last man on your county ticket.

Now, my fellow-citizens, let me get back to Mr. Bryan. He is not talking much this year about free silver or about prosperity or about free wool or free trade, but he is talking chiefly about what he calls the paramount issue—about imperialism. Let me talk to you a little about imperialism. He takes as his text when he gets on his subject, the Philippine Islands. (Laughter.) Well, is there any truth in the charge he makes, (A voice: "No!") that William McKinley in what has been done with respect to the Philippines has evinced a disposition to overthrow the government and institute a monarchy

on its ruins? Every man of common sense knows there isn't any truth in it. (A voice: "That is right.") And William J. Bryan will know it when the people have spoken on the 6th day of next November (applause) if he is able to know anything at all after that time. (Great laughter.)

Why, my fellow-citizens, this charge has been heard before. They talked in the same way about Thomas Jefferson; they talked in the same way about Andrew Jackson; they talked in the same way about Abraham Lincoln, and they talked a great deal worse than that about Ulvsses S. Grant. They were all, according to their political opponents of their respective times, trying to destroy the republic and set up a monarchy. Yet every man knows that Jefferson and Jackson and Lincoln and Grant have an imperial character to-day only in the sense that they rule in an imperial way in the recollections and in the affections of the whole American people. (Applause.) Every man knows that each of them was but striving to conscientiously exercise for the good of the whole country the constitutional power with which as President he had been invested. But what is it about the Philippines? They say we are trying to acquire territory and to govern people without their consent. Well, Thomas Jefferson did that: Thomas Jefferson wrote the Declaration of Independence; he put into that instrument the statement that the "Just powers of government are derived from the consent of the governed." When he wrote that in there, however, he didn't seem to be thinking anything about the black man, who was a slave and had no right, according to a Democratic judge of a later day, that any white man was bound to respect. A little bit later - in 1803 - Thomas Jefferson was a Democratic President of the United States; he had a Democratic Congress in power with him. At that time Napoleon, to fill up his war chest and enable him to carry on his military operations, sought to sell Louisiana and made known his wish in that respect to the United States minister representing us at Paris. He communicated Napoleon's desire to Thomas Jefferson and asked for instructions. What did Jefferson do? There were about 60,000 people then living in the Louisiana territory and

they were a very intelligent, capable and educated people. Did Thomas Jefferson send some one down to Louisiana to consult that people and ascertain whether or not they would consent that the United States might buy that territory from France? No; he didn't seem to feel called upon to do that, but instead he wrote back by the first mail-didn't have any cable then or he would have used that—and said to our minister: "Get his best price and close the bargain." (Laughter.) And when Napoleon said he thought he ought to have fifteen million dollars for it, our minister closed with him, negotiated a treaty, sent it to Tefferson, who quickly approved it, called an extra session of Congress to ratify the treaty and appropriate the money, and he didn't stop to consult anybody. when the Senate came to consider the question of ratification they didn't consult anybody in Louisiana but by an almost unanimous vote they voted to ratify the treaty; and when the House appropriated the fifteen millions of dollars to pay for it. they did that by an almost unanimous vote without stopping to consult anybody.

And then it became necessary for us to take possession and institute government; and Jefferson attended to that; and how did he do it? Did he send down and notify those people that we were about to take possession and give them government and ask them what kind of government they wanted? No; he simply sent our representatives and military power to support them and told them to put up the flag and establish law and order and government until he gave further directions. (Laughter.) That is all. And presently after that Congress came to legislate on the subject, and what kind of a government do you think that Democratic Congress of Thomas Jefferson provided for these people of Louisiana? It is a short law, only about twenty lines, not longer than your hand, for it simply provided that all military and civil power until Congress should further act should be vested in such person or persons as the President of the United States might appoint.

The people of Louisiana thereupon objected. They sent a memorial to Congress and to Jefferson and claimed that they ought to be consulted and ought to be allowed to participate in

that government. What did Jefferson, the author of the Declaration of Independence, answer? It stands recorded in history, and even William J. Bryan might know about it if he wanted to. (Laughter.) Jefferson said in effect: "It is true that many of the people of Louisiana are educated, are qualified, are capable, but it is also true that they have lived heretofore under only Spanish and French laws and systems of government, and in my opinion they are not able to govern themselves and to participate in the government of this country."

He said in effect: "We will simply keep them on probation until in our judgement they reach that stage." That is what Jefferson said, and yet this man Bryan is quoting Jefferson and the Declaration of Independence as a reason why as soon as we put up our flag in the Philippines we ought to have hauled it down and made acknowledgment to Aguinaldo and his Tagalogs and told them to enter into the work of governing themselves.

What we did in Louisiana, my fellow-citizens, we did again in Florida. In 1819 James Monroe was President and we had a Democratic Congress and they acquired Florida and they governed Florida in the same way, the first governor being old Andrew Jackson himself, and when he went down there, he went with instructions to establish law and order and to use all the military power necessary, and he used it. (Laughter.) He used it on the white inhabitants and on the Seminoles alike, and a little bit later when he came to run for the Presidency, they called him, as I said awhile ago, a king and a tyrant, because of what he had done there and had done elsewhere. But the American people of that day knew and appreciated Andrew Jackson, as the American people of this day know and appreciate William McKinley, and Andrew Jackson was reelected as William McKinley will be re-elected. (Applause.)

Now, my fellow-citizens, consider a little bit further. Have we made any mistake about the Philippines? How did we get there? Why, you all know that we got into the war with Spain on account of Cuba. We had no thought when that war commenced of making war on Spain beyond intervening in Cuba to put Spain out of that island and give the Cubans

their independence, as we propose to do. But when we passed resolutions of intervention, Spain answered by declaring war against the United States. That let down the bars everywhere and took into the field of operation not only Cuba and Porto Rico, but the Philippines and all the possessions of Spain, and we were not long finding out where they were located. (Laughter.)

Now, my fellow-citizens, when war is declared by two nations upon each other, there are certain international laws that at once go into operation. According to international law, for instance, the warships of a belligerent power are not allowed to remain longer than twenty-four hours in any neutral port of the world. They can enter during war a neutral port for no other purpose than to acquire supplies of food and coal, or whatever they may be after to enable them to get to the nearest home port. You can't stock up your ship with coal; you can' stock up your ship with food or with clothing or anything else in any neutral port of the world. Just as soon as war is declared, you have to go home if you are away from home, or you have got to do something else. (Laughter.)

Now, for years we have been building up a great commerce in the far East. We commenced first to trade with Japan when Commodore Perry opened up a way for the world, and a great commerce, amounting to more than \$100,000,000 annually with other nations, has sprung up for Japan. We are commencing to trade with China, with India, with Oceanica, with the Straits Settlements, and a little bit we were with the Philippines. To protect that commerce and American interests generally in that country we were keeping what was called the Asiatic squadron in those far Eastern waters. We had been keeping it there for years. We considered it necessary to keep it there in time of peace so that if any trouble suddenly arose, it would be there to protect American citizens and protect the interest of the American people. You know only a few days ago we had trouble suddenly spring up in China—the Boxers undertook to murder our missionaries, and did murder a great many of them, and shut off our ministers from all communication with

the civilized world. We had a fleet over there to go to the rescue in just such emergencies as that.

Well, now, this war came on. This Asiatic squadron of ours was in the harbor of Hong Kong. We didn't have any harbor where it could stay in all that far Eastern world. It is different now. (Laughter.) We have got one, and we found out it is a convenient and good thing to have, and we are going to keep it. (Great applause.)

There we were, war broke out, our fleet at Hong Kong-a port controlled by Great Britain. It was necessary for that Asiatic squadron to quit that port within twenty-four hours; international law so required. There was no American home port nearer than San Francisco, some seven or eight thousand miles away. Dewey had, therefore, to sail out of Hong Kong and sail all the way back to San Francisco where he wasn't needed, leaving American interests in the far East, which we thought it necessary to protect by having present there a navy in time of peace, absolutely unprotected in time of war. It didn't seem to us he ought to come home, especially not when we remembered that Spain had the Philippine Islands in that part of the world as among her possessions, and that she had a war fleet at Manila or somewhere thereabouts. For us to bring our navy home where it wasn't needed and leave our interests thus unprotected in time of war, with the Spanish navy present on that scene of activity, would have been folly enough to have done discredit even to a Democratic administration. (Laughter.) And when the question arose, what should we do with Dewey, the President, looking the whole situation over, cabled Dewey-I am not trying to give his exact language, but only the substance of itinforming him that war had been that day declared with Spain; that in consequence it was necessary for him within twenty four hours to quit the harbor of Hong Kong and come all the way home to San Francisco where he wasn't needed, or else stay over there and commence doing business. (Laughter.) And so he pointed out to him in that connection that it was reported that there was a Spanish fleet down at Manila or somewhere in the Philippine Islands, and he

instructed Dewey, instead of coming home, to go down to the Philippine Islands, some six hundred miles away, and find that Spanish fleet and capture or destroy it. You see the President was a reasonable kind of a man (laughter); he wasn't rigid or exacting in his requirements, but he gave Dewey an option (laughter), and Dewey remembered the Maine and exercised it. (Laughter and great applause.) And just one week later, my fellow-citizens, the cheek of every patriotic American was made to mantle with pride when he read a cablegram from Manila announcing that Dewey had found it: that he had sailed into Manila Bay in the night time; that he had discovered and attacked the Spanish navy at 5 o'clock in the morning-a very discourteous thing-before they got their breakfast, you know, and before noontime, without the loss of a vessel or a man, he had sent every last one of them to join the Maine on the bottom of the sea. (Great applause.)

Well, now, my fellow-citizens, that is how we got to the Philippines. Anything wrong about it? (Cries of "No, no!")

Well, now, a Democrat says it is all right the way we got there, but he says we ought to have come away right away. (Laughter.) Well, if that is what our Democratic friends think, it is a piece of rare good fortune that they didn't have any say about it at that time. Come away! We had not gone there to come away. (Laughter.) We went down to Manila because we had no port in all that country where our navy could stay and protect our commerce in time of war. As a result of that battle we had one, and it was located at just exactly about the right spot. In the Bay of Manila, especially with the Spanish fleet on the bottom of the sea, we ruled the whole business, and our commerce wasn't in any danger from Spain or from anybody else.

Well, people said, You had better bring Dewey home—they said this to the President—"Don't you see that old Cervera is gathering another great fleet, the pride, they say, of Spain, and that he issued a proclamation announcing that he intends to sail across to the Caribbean Sea and find the United States navy and destroy it?" "Yes," the President said, "I read that."

"Well, don't you think you had better hurry home with Dewey?" He said, "I think Sampson and Schley can attend to Cervera; I don't think Dewey is needed here any more than he was needed at San Francisco. I think I will leave him where he is "-and he did leave him, and subsequent events justified the judgment of the President, for when old Cervera undertook to get out of the harbor of Santiago, where he was bottled up, that he might get away from Roosevelt and the Rough Riders. who were after him from the land side, he ran into Schley and Sampson, and it wasn't but an hour or two until the last ship of that pride of the Spanish navy had also gone to join the Maine on the bottom of the sea. (Applause.) And then it was evident not only that Dewey had not been needed on this side, but that the way Dewey did at Manila is just the way that the American navy has of doing its business. At any rate, my fellow-citizens, the President thought it well enough to leave our navy in time of war where it had been thought necessary for years to keep a navy in time of peace, and Dewey was left there. We thought he might spend his time protecting American interests there and in that part of the globe and in getting acquainted with these Filipinos. We didn't know much about them. I don't expect there were fifty men in Congress who had ever heard tell of the Filipinos before the war commenced. So we thought we would find out who they were and what they are and what they needed, and find out our own wants with respect to them and that archipelago, and we set Dewey to work keeping guard and finding out.

Well, that war was over so quickly that the Spanish took us by surprise when they sued for peace. (Laughter.) Our commissioners met, and the first question was whether or not they should pay us an indemnity. All other nations when they go to war and succeed exact an indemnity of the conquered nation—Germany, you will remember, exacted one from France, a thousand millions, and made France pay it. That is customary; that has been the rule in ancient as well as in modern wars. And when our peace commissioners met the first question was, what about an indemnity? Spain says,—"You ain't going to demand one, are you?" (Laughter.) "Well," we

said, "we thought we ought to have something." We said-"you have not given us much trouble, that is true (laughter), but you have put us to a great deal of expense, and we think you ought to foot the bill just for example's sake." "Well," she says,-"it is no use to ask money, for I have not got it," and she had not, for she had no army, she had no navy she had no money, she had no credit, she had nothing except only a little real estate. She said she had some of that. "Well," we said, "if that is all you have got to pay with, while we are not exactly in the real estate business, you will please exhibit it and let us look it over." "Well." she says, "there is Cuba; you can have Cuba." We told her we didn't want Cuba, and we wouldn't take Cuba. We told her that we had intervened in order that the Cuban might have his independence; that we had given a pledge to Cuba and all the world when we did intervene that we had no purpose to acquire territory, but only to do an act of humanity and give the Cuban that independence for which he had so long and so bravely and so herocically struggled, and now we are about ready to install him in a government of his own. We said that was our purpose, we given that pledge, and that when the United States of America gave a pledge it always meant to keep that pledge in both spirit and letter, and that therefore, as to Cuba, Spain could simply get out and give the country over to the Cubans through us, but that Spain couldn't use that island to pay her debt. We told her she would have to pay it with something that belonged to her-Cuba didn't any more. "Well, then," she says, "I reckon I will have to give you Porto Rico." "Well," we said, "we would think she had better do that;"and then remembering that she is a bad neighbor anyhow, we just concluded while about it, to put her out of the whole Western hemisphere, and we did that so easily we concluded we would put her out of the Eastern hemisphere too, and so we said to her. the fortunes of war having carried us to the Philippine Islands,-"we find that you have been ruling over there even more inhumanly than you ruled in Cuba, and it would be an act of inhumanity for us to leave the Filipino under your sovereignty, so

you will have to get out of there, too." She didn't like that; she objected, she got augry, she threatened to break off the negotiations and resume the war. We said she had a right to do that if she wanted to. She thought about it a day and came back and said: "We have concluded not to resume the war but to resume negotiations"—and then she told us that she had been ruling in the Philippines for more than three hundred years, and during that time she had spent large amounts of money for harbor improvements and naval stations and custom houses and other public improvements, and she thought we ought to reimburse her for those things for which she had spent money which she couldn't take away with her. Well, that made us feel a little bit nervous, for we thought at once how much would the United States probably spend in three hundred years of government of the Philippines. But we were relieved when she announced that the sum total was only twenty millions of dollars. We would spend it in six months, and spend it well, and spend it for good government, and spend it for the elevation of that whole people. We were feeling very generous then. We could afford to. We wanted to deal well with poor old Spain, and so we said to her, finally, all right, we will take title, and put that in this treaty, to both Porto Rico and the Philippines, and also to Guam, and we will pay you twenty million dollars to reimburse you for your moneys expended here-more money than Spain has made by one operation for one hundred years, I expect. (Laughter.) Well, she signed up, our commissioners came home, the President approved the treaty, sent it to the Senate for ratification. In the Senate we had only forty-three Republican votes for it. It was necessary to have a two-thirds vote to ratify. We must, therefore, have seventeen Democratic votes. For a time it looked like we would not be able to get them, and we would not have been only for the fact that just in the very nick of time William J. Bryan himself came to Washington and by personal persuasion induced seventeen Democrats to vote for it. (Applause.) That is the most creditable thing he ever did in all his political life. (Applause.) We gave him credit for good intentions, but almost immediately it appeared as though he had only been trying to put the Republican party in a hole, for right away he said, after we had taken title both by conquest and by purchase, after we paid down the money, he says-"Now, you must not take possession of the property." (Laughter.) That was a statesmanlike proposition worthy of the Boy Orator of the Platte. Why not take possession of the property? "Why," he says, "don't you see Aguinaldo is objecting, and you can't take possession of the property and maintain authority and establish government and hold possession and keep our flag floating unless you have the consent of the governed, for Thomas Jefferson said so." "Well," we said, "that is true, Thomas Jefferson had said so, but Thomas Jefferson when he came to act and discharge the responsibilities of President didn't seem to be troubled about that in connection with Louisiana; neither did James Monroe; neither did James K. Polk as to territory we acquired from Mexico." That didn't answer him. He still said, as long as Aguinaldo and his followers object you violate the Declaration if you insist upon remaining there. Well, then we called his attention to another fact that I observe he never mentions when he discusses this subject. We said while it was true that Aguinaldo and his Tagalogs were in hostility-not all of them, but a good proportion of themsome of that tribe are very friendly. But we said to him that Aguinaldo and the Tagalogs represent but one tribe out of eighty-three tribes that inhabit that archipelago, and every other tribe excepting Aguinaldo and the Tagalogs were friendly to the United States. Aguinaldo's tribe of Tagalogs numbers all told not exceeding, according to the highest figures I have ever seen given, a million and a half. The Vissayans alone number two and a half millions, and while Aguinaldo is fighting our authority, the Vissayans have welcomed our authority and they have invited our government to remain there and to keep our flag there for their protection as well as for our good. And now then each and every other tribe save only these Tagalogs have acted precisely as the Vissayans, and so only about one million and a half are hostile to us out of eight millions and a half of the whole archipelago, and we

said to Mr. Bryan, as I am now saying to this audience, when we entered into the treaty with Spain we assumed obligations with respect to all the inhabitants of those islands, each and every one of the eighty-three tribes, as well as obligations of an international character to the other nations of the earth, and we do not intend to shirk this responsibility or be driven from the discharge of our duty by any Tagal bandit who raises his hand against the American flag.

And so, therefore, my fellow-citizens, we have been remaining in the Philippines and intend to remain in the Philippines. (A voice: "Right.") Only a few days ago Judge Taft and the civil commission, of which he is the head, and of which two members are Democrats, made a unanimous report to the President of the United States of the results of their months of investigation of Philippine conditions on the ground, and they said in that report to the President of the United States that we were getting along splendidly with the work of suppressing the insurrection and the work of establishing civil government. even among the Tagalos, until the Kansas City convention met and adopted the platform on which Mr. Bryan stands, denouncing the war and promising independence to that people. and they said from that minute, that platform having been proclaimed throughout the Island of Luzon, the Tagalos and all the followers of Aguinaldo had redoubled their energies in opposition to our authority.

Now, my fellow-citizens, history repeats itself. We had precisely this same experience in 1864, and every man who remembers that time, and especially every man of these men who were then in the service in the army, will remember that in the early part of 1864, in fact from the day when we won the victories of Vicksburg and Gettysburg, the Southern Confederacy was on the point of collapsing, and throughout the early part of 1864 you couldn't capture a Johnny and bring him into camp who didn't tell you that the end was near at hand—the Confederacy was on its last legs. They made no hesitation in admitting it. That continued until the Democratic national convention met at Chicago and nominated George B. McClellan on a platform that

denounced the war as a failure and demanded the immediate cessation of hostilities, and from that time on every Johnny seemed to have taken a new hitch in his belt; he had more spirit and pluck, and you heard from every one of them that they intended to hold out no matter what might come until the Presidential election had come and gone and they knew what the result would be. But the election came and went; Abraham Lincoln was triumphantly re-elected, as William McKinley will be, and immediately practically the Southern Confederacy collapsed. The resistance from that time on was only to secure the best terms of defeat possible, and just as the Southern Confederacy went to the wall with the re-election of Abraham Lincoln in 1864, so will Aguinaldo and his Tagalos go to the wall with William Jennings Bryan and the Democratic party in their defeat in 1900. (Great applause.)

Now, my fellow-citizens, let me see how much time I have.

MR. NEVIN: All you want.

Senator Foraker: Well, there is nobody else to follow, but I am going on this train; I have to speak to-night in Columbus.

MR. NEVIN: You have got all the time you want for that. SENATOR FORAKER: I just want to know—there is nothing like knowing about it. I will tarry with you long enough to give you another point in regard to the Philippines. I have told you how we got there and you have agreed with me-that was all right. I told you why we stayed there, and I am willing to submit it to this audience if that, too, wasn't all right. And now look at the consequences. Mr. Bryan is everywhere talking about the Republican party putting the dollar above the man. That isn't true; the Republican party does not think more of the dollar than it does of the man, but the Republican party does think that the man has a great deal of use for the dollar (applause) and would like to keep them in touch with one another and on reasonable terms of friendship and acquaintance. (Laughter.) It was because we thought the dollar a good thing for the man that we adopted the policy of protection as against free trade and developed our

resources and gave our laboring men work at remunerative wages and gave our farmers home markets where they could sell their products at a profit for themselves. It was because we thought the man needed the dollar that we gave this country a successful system of finance and started it on the road to the great prosperity that it has enjoyed. Just so to-day, we are not unmindful of the dollar in connection with the man. Now, in 1896, every man was thinking of the dollar, how we could restore prosperity and he could get it. In 1900 we are all thinking how we can keep this prosperity and keep the dollar that it has brought.

We have reached, my fellow-citizens, a most interesting period in the development of the United States, and the Philippines are cutting a figure with respect to it. Let me tell you how. While we have in former years been going about over the country arguing before the people in favor of a protective tariff, we have been telling them that its purpose was to make this country independent of every other country on the face of the earth. We wanted to develop our own resources, employ our own labor, supply our own home market, and we also told the people in connection with these discussions that if we perpetuated this policy long enough the time would come, and come shortly, as it has already come, when we would supply our own home markets and have a surplus to sell abroad, and that then would be time enough to talk about the markets of the world. I say we have reached that point. We are to-day supplying our own home wants to such an extent that it was almost impossible when we framed the Dingley tariff law to find enough articles imported into this country on which we could impose duties to yield a sufficient revenue to support the Government. We used to import millions of tons of iron and iron products. We don't do it any more. We make nearly everything in that line that we want. We buy but little abroad. But little is, therefore, imported. Trifling, therefore, is the duty arising therefrom. As it is with that one line of goods, so it is with all others. We are supplying ourselves, and now, to-day, we have a great surplus product being turned out by our shops and mills and foundries and factories throughout this country—a product, a surplus, I mean, which we cannot sell here at home in the United States. We have to look abroad for the sale of it, and we must find a place to sell it or we will quit producing it, and if we quit producing it, as we will if we can't sell it, it means that your shops and factories must curtail their product accordingly, and labor will be limited accordingly in its employment, the pay-rolls cut down.

Now, the Republican party doesn't want to curtail the employment of labor. On the contrary, we propose to keep the mills going, the factories running, the wage worker employed, and have all this country both prosperous and happy for years and years to come, for we don't anticipate that the American people will ever be foolish enough to have another Democratic administration. (Applause.)

But, my fellow-citizens, the problem is one of great importance. How are we to do that? You can't sell this surplus in Europe, but you can sell it in the far East. I spoke awhile ago about Japan and China. We are just beginning to trade over there. They are only now being made acquainted with our civilization and learning their necessities for what we are making. As a result we are building their railroads; we are sending them electrical apparatus; we are sending them portable engines; the Niles Tool Works in Hamilton is sending tools to all that country. Probably some of your Dayton institutions are doing the same. I probably wouldn't miss if I would say your sewing machine factories are sending goods there, for the Chinaman will learn to sew just as he learned to prefer corn to rats. We are going to have a great trade; we are just on the threshold of it. It is developing. What we want is our fair share of that trade. Every nation on the face of the earth appreciates that that is the great market of the immediate future. See what Russia is doing; see what Germany is doing; see what England and France have been doing. Russia has built what is known as the Trans-Siberian railway, more than anything else that she may get into commanding position with respect to that foreign trade of the Orient. Germany has been making a territorial lodgment; England has been establishing a sphere of influence; France has been taking possession of some territory, and only a short time ago, a few months ago, it turned out that these other powers thus making lodgments there were apparently co-operating for the purpose of shutting Uncle Sam out. They were going to take all of the trade for themselves. They were closing the door, as the expression is; we wanted an open door. It was fortunate for this country that in that emergency we had in the White House William McKinley, and in the office of Secretary of State so accomplished a diplomat as John Hay. (Applause.) They talked it over, and as a result Mr. Hay, on behalf of the United States, wrote to Russia, to England, Germany and France and all the other powers interested and told them that we had great interests in the trade in China and the far East; that we had a great surplus which we must find a market for or else stop our mills to a degree thus interfering with the employment of our labor, and we said we would regard it as an act of hostility if they shut the door in our face and we would do the best we could, using parliamentary and diplomatic language of course, to kick the door down. That was enough. Four or five years ago they would have said kick andstay out. (Laughter; renewed laughter.) But, my fellowcitizens, they don't treat communications from Uncle Sam that way since Dewey sailed into Manila Bay, and so when they got these letters they made haste to answer and say: "Why, certainly, yes, to be sure, glad you made us acquainted with your wish. If you want to trade over here, to be sure you shall—you shall have an open door. We beg your pardon for thinking we intended anything else."

Now, by an open door is simply meant that we shall go in on the same terms as everybody else. We have no favor, they have no advantage over us; we don't need any favor. Give us a fair field and we will take it as against all of them in competitition, because we have the brainiest and the most skillful mechanics on the face of the earth, the most faithful wage workers. (Applause.) They can do more work and better work than any other workmen on the globe, and when they

furnish the product our merchants will do the balance, and so we said all right, then, it is settled that we have an open door—that is settled—every nation is agreed to it. It wasn't necessary to make any threat. (Laughter.) Just as soon as they found out what we wanted, that was enough.

Well, my fellow-citizens, here is how the Philippines come in, if we are to have our fair share of that great trade; it means a trade amounting in a few years to hundreds of millions of dollars. We will have our ships; we will have our citizens; we will have our interests all over that Eastern country. We want to protect them and we want to be successful, and in that behalf the Philippine Islands afford us a base for operations that gives us an advantage over every other nation. The good Lord gave us those islands. He had a great purpose to subserve, as I do verily believe. My fellow-citizens, when you go home to-night get your map and look at it and study the situation they have—see how they are put down there in the very front door yard, as it were, of the great commercial theater. See what an advantage we have, and then when you have looked it all over, call in your Democratic neighbor, show him the map, explain to him what it is (laughter), point out to him the relations to each other depicted there, and before you get done he will agree with you that having in mind this great duty toward the American people to have our fair share of those markets, a duty we owe to every man who works in a factory in Dayton and every farmer of Montgomery county who wants wage workers employed to whom he can sell, as a home market, his products; a duty we owe to every miner, to every mill man, every man who eats his bread in the sweat of his face, having in mind that duty, he will agree with you, if you get him to rightly understand it, that it would be a great piece of folly for us now, after the fortunes of war carried us there, after our flag has been floating on the breezes there, after our boys in blue have died and been buried there, after that country has been dedicated and consecrated to America and the impulses of the American people, a great piece of folly that would discredit even William J. Bryan to haul down the

flag and bring away the navy and army and surrender to Aguinaldo or anybody else.

Now, my fellow-citizens, just one or two words more. ("Go on.") What is it we are doing over there? Why, according to Bryan, you would think that we were not doing anything only shooting Filipinos. We don't want to kill anyone; we don't kill anybody only as they get in the way and have to be killed, as they make it necessary by their acts of hostility. But that, my fellow-citizens, is the smallest part of the great work we are doing in the Philippines. In this same report from Judge Taft and his commission that I referred to a moment ago, he concluded with a paragraph I want to read to you if I can find it. It will give you an insight into what kind of an emperor William McKinley is anyhow. This commission report in the last paragraph as follows—about a month ago this was sent: "Calls are made upon us from all parts of the islands for public schools (Very hostile, ain't they?), for school supplies and English teachers. These demands are greater than this commission can provide until a comprehensive school system is organized." Now, further: "Night schools for teaching English to adults are being established in response to the popular demand." (Applause.)

In the few months we have been there we have established more schools than Spain established there in the three hundred years that she misruled them. (Applause.) And we are not yet fairly started in the work. We are going to put school-houses all over those islands, and we are going to let them have not only day schools, but night schools, too; and the time isn't far distant, when, as a result of it, they will all rejoice that our flag came and came to stay, and if they get an opportunity to vote, they will vote the Republican ticket. (Applause.)

Now, my fellow-citizens, when Mr. Bryan or any other Democrat talks to you about hauling down the flag in the Philippines, remind him if he does that he must close up the school-houses also. A Democrat might afford to close a school-house, but no Republican would ever think of doing it. (Applause.)

We are doing something else over there that I want to tell you about. Dr. John Pierson, one of the presiding elders of the Methodist Episcopal Church, told me a few days ago in a conversation that I had with him, that in a conversation with Bishop Thoburn of that church, who has twice visited the Philippine Islands since Dewey's victory, the Bishop told him many interesting things, but that of all the Bishop told him that which touched him most of all things was that he there witnessed the arrival of the first installment of Bibles printed both in the English and the Spanish languages, sent by the American Bible Society. He said there were over five hundred copies in the first lot, but each and every one was sold on the streets of Manila to Filipinos at twenty-five cents apiece, which they got somewhere, before noontime on that first day. And he said the good work thus commenced was expanding as everything else expands except only the Democratic party. (Laughter.) And to-day, he says, we are selling and putting into the Philippines in that same way those same Bibles at the rate of twelve thousand a month. No wonder Bryan dosn't want us to keep them. (Laughter.) He will never be able to do business with the people of a country that is spotted all over with school-houses and every inhabitant of which has a Bible to read. (Laughter.)

So, my fellow-citizens, when they talk to you about imperialism; when they talk to you about William McKinley wanting to overturn this Government and establish a monarchy; when they tell you that we must withdraw from the Philippines, haul down our flag—think of all these great interests that are wrapped up in our remaining there, and then, when you go to the polls on the 6th day of November, say No with a big N, and say it over and over again, and to the tune here in Ohio of not less than sixty thousand majority.

Now, my fellow-citizens, I would be glad to talk to you longer, but I haven't the time. I have to speak to-night in Columbus and a good many places to-morrow, and on every day until election, and I think I have tarried with you long enough—I know it is as long as I can stay unless I miss my

train and stay all night. I don't know any place in the universe I would rather stay than in Dayton. (Applause.) You have always been my friends, and I want always to be yours. (Applause.) Let me close, therefore, simply with the exhortation that you do your duty, as I know you will, on the 6th of November, and let us continue William McKinley, continue prosperity and uphold and maintain the honor and dignity and glory of the American name and the American flag. (Great applause.)









### SPEECH

OF

## SENATOR FORAKER

ON

# PENDING QUESTIONS RELATING TO OUR INDUSTRIAL DEVELOPMENT,

MADE BEFORE

THE MANUFACTURERS' CLUB OF CINCINNATI, OHIO, DECEMBER 27TH, 1900.

MR. CHAIRMAN AND GENTLEMEN: You have given me a comprehensive topic. It embraces a number of subjects, any one of which would require more time for its proper presentation and discussion than it would be appropriate for me to take on such an occasion as this. I must, therefore, of necessity, pass by some of these pending questions, if not without mention, at least with only enough attention to indicate their nature and importance, if I would speak with even scant satisfaction upon any of them. If the situation admitted I would be glad to speak to this audience at length of what might be termed a sort of home question, and what is certainly an all-important question to the manufacturers of Cincinnati and all the people of the Ohio Valley. I refer to the question of the

#### IMPROVEMENT OF THE OHIO RIVER.

I would not stop to say a word on this subject under the circumstances if it were not that even intelligent business men do not seem to understand and appreciate what is involved for the country generally, and themselves in particular, in this work.

It was commenced 75 years ago, the first appropriation having been made by Congress in 1825.

For many years nothing more was attempted than a removal of snags and the dredging of channels. The work went on in

this general way until some fifteen or twenty years ago, when a systematic plan was entered upon by the Government to provide slack water navigation by the construction of a scientific system of movable dams with locks. Between Pittsburg and Cullum's Ripple, just below Cincinnati, there are to be, according to this plan, 38 of these dams.

The first was built and put into operation some years ago at Davis Island, just below Pittsburg. They are now constructing Dam No. 18, just below Marietta, and this Congress will make an appropriation for the dam at Cullum's Ripple—the one in which we are particularly interested. The intermediate dams will be constructed as rapidly as appropriations can be secured.

The effect of this improvement will be to give a depth of six feet in times of low water at the shallowest point.

To bring this matter home to you—when the dam at Cullum's Ripple is constructed—instead of having an unnavigable, dried-up thread of water in front of Cincinnati during the dry season of the summer, we shall have a magnificent lake, thirty miles in length and not less than six feet in depth at the most shallow point of the channel; and when the whole system is completed and in successful operation this city and the whole Ohio Valley will be nearer the Gulf of Mexico, the Nicaragua Canal and the trade and markets of Asia and the Pacific Coast of both North and South America than the Atlantic seaboard is now.

This improvement will cost the Government a great many millions of dollars, but the results will justify the expenditure. The Ohio River is about 1,000 miles in length, and has a drainage area of 210,000 square miles, with a population of more than 10,000,000 of people; and, notwithstanding the present unsatisfactory conditions and the railroad competition that has been so disastrous, during the year 1899 more than 13,000,000 tons of freight were carried upon the Ohio River. Slack water navigation will immeasurably increase this tonnage.

I mention these figures simply to indicate the possibilities of development that will follow this improvement. Our population and our industries will multiply, our transportation will greatly increase, and our city will be practically transferred from inland to seacoast, so far as the great trade of the future is concerned.

But I turn from the subject, in the hope that I have said enough to interest you in a work toward the successful prosecution of which you can, by your influence and efforts, contribute great assistance. The people of the Ohio Valley are to be congratulated that they have such intelligent and capable representatives as E. P. Wilson, of this city, and the Honorable John L. Vance, of Gallipolis, to represent their interests in this behalf and to press for proper attention to this work at Washington. They have done well. With proper support from you, they can, however, do much better.

#### THE MERCHANT MARINE.

The restoration of our merchant marine is another pending question that is attracting a great deal of attention at Washington and throughout the country. There are naturally differences of opinion as to the methods to be provided in enacting legislation on this subject, but all realize that our foreign commerce should be carried in American bottoms, sailing under the American flag.

During the early days of the republic we carried in American built and owned ships 90 per cent. of our foreign exports and imports. We are now carrying only about 10 per cent.

In that former time we built up our merchant marine and maintained it by adopting and practicing the policy of discriminating duties. For illustration, if a shipper in Liverpool desired to send goods to America that were dutiable under our tariff laws we allowed him, as an inducement to ship in an American vessel, a rebate on tariff duties when his goods entered the American port.

That policy answered the purpose at that time. It secured business for our ships, and the result was a triumphant success. We abandoned the policy and lost our business. Many other causes intervened to bring about our present condition besides this change of policy, which, under the limits of this occasion, I shall not undertake to mention or discuss. The great question with which we are now concerned is, What is the best remedy that can be applied?

The policy of discriminating duties fully answered at one time, but the situation has changed. Then we had no "grey-hounds of the sea;" all were slow freighters. They carried

cargoes, mails and passengers alike. In consequence rebates of tariff and tonnage duties worked equitably and brought prosperity to American shipping. Now it is different. Today we have not only the slow freighters that carry no passengers or mail, but also the swift mail and passengers boats that carry practically no freight. They are an indispensable part of a merchant marine, but the least profitable ships that sail, hence they need help more that any other class of ships, and yet would receive practically nothing under the policy of discriminating duties, because they carry no freight of consequence, either dutiable or undutiable.

Under these new conditions it was found, therefore, when Congress entered upon the investigation of this subject, that this policy would not fully answer present requirements. In addition to this trouble, commercial treaties and the fear of retaliation stand in the way of resuming that policy, and compelus, if we would extend governmental help to American shipping, to do it by a grant of subsidies.

Accordingly, Senator Frye, Senator Hanna and others associated with them on the Committee of Commerce of the Senate, have framed a bill upon these lines which is now pending, and in support of which both Senators Frye and Hanna, as well as others, have made very able and exhaustive arguments.

It has been objected to on the ground that it restricts too much the admission to American registry of foreign-built and American-owned ships, thus postponing unduly—as the advocates of this idea claim—a tonnage under the American flag equal to our demands; and, upon the further ground, that in the effort to assist the fast sailing ships that carry principally passengers and mails, sufficient help is not extended to the slow-sailing freighters, upon which we must rely for the accommodation of our merchandise.

No one can now tell what will be the ultimate form of the bill in all its details as it will finally be voted upon. Amendments may be adopted by the Senate, and probably will be, as a number have been already by the Committee of Commerce. But, in some form or other, the best measure attainable will be passed sooner or later; if not at this session then most likely in the next Congress; and, thus, so far as legislation is concerned, a first step will have been taken toward regaining

that supremacy on the seas that we formerly enjoyed and which to-day belongs to us as the first nation of the world.

The result will be to enlarge and multiply our shipyards, increase the demand for our labor and shipbuilding materials, open the way for employment to all who wish "to go down to sea," create a trained body of seamen from which to recruit our navy in the emergencies of war, save to our own people \$200,000,000 annually that we now pay to foreign ships, and make familiar in all the pathways of the oceans and in all the ports of the world the flag of the strongest, the richest and the freest country on earth.

But what I would speak of here to-night, more than anything else, remains to be mentioned. The Ohio River improvement and the restoration of our merchant marine are thus highly important only because our ever-expanding industries and capacity for production have made them so. We have reached a point where their importance is at last manifest to all. No argument is needed to set it forth. In the same way, other questions have arisen and have become pressing necessities.

#### TERRITORIAL GROWTH.

Our territorial growth has been phenomenal. The 13 original States have grown to 45 imperial Commonwealths that make an unbroken belt across the continent. The flag has been carried beyond our shores and planted on the islands of the seas. Our population has grown from 3,000,000 to nearly 80,000,000. The multiplication of our industries has kept even pace, and we have to-day the greatest diversity of pursuits and the largest aggregate of wealth with which any nation has ever been blessed.

During the last fiscal year our exports amounted to almost \$1,400,000,000, and the net balance of trade with other countries in our favor was more than \$550,000,000. The present year will not only maintain, but increase that advantage. In consequence we have a perfect flood of gold pouring in upon us from every quarter of the globe. This is not only transforming us from a debtor nation—which we have always heretofore been—to a creditor nation, to which, more and more, as the years go by, all the nations must come to borrow, as Mexico, Sweden, Germany, Russia and England have already

done; but it is quickening the business activities of our peoplebeyond anything ever witnessed in human history. We find ourselves no longer battling with foreign competitors to supply our home demands, but, underselling all comers, we supply our own markets and are striving to sell a great surplus, not needed at home, in the markets of the world.

We are sending locomotives to England, steel rails to Russia, building bridges in the Soudan, and generally speaking, are beginning to send to Europe, Asia, Africa, and Australia almost everything we manufacture, from simple bar iron to the most delicate and complicated electrical apparatus.

But, notwithstanding all this, we still have a great and rapidly increasing surplus for which to find markets abroad. One of the greatest problems of American statesmanship is to-secure these markets. This is a question in which not only manufacturers, but all classes of our citizens are directly interested, and no man more than the farmer, the artisan, the mechanic, the wage-worker.

Since, if we cannot sell, we will not long produce, and unless we have sufficient markets, the day is not far distant when we will be compelled to restrict production and cut down the pay roll. But if we would sell our surplus productions of the shops and the farms, we must look elsewhere than to Europe. That continent will take from us only to a limited extent. The European peoples understand and appreciate the propriety and the necessity of supplying their own wants to the full extent of their capacity to do so.

Their market is not large enough for them and us also. But just as we reach the point where we are concerned about the markets of the world, the far East is opened to us in common with the rest of mankind.

During the last 20 years the world has been making a sort of "change of front," and now, when we think of the great theater of commercial activity that is to come with the years, we look not across the Atlantic but across the Pacific. In Japan, and Korea, and China, and South India, and Oceanica, are hundreds of millions of people who are only just now becoming acquainted with our civilization and learning their need for what we produce.

In the few years that Japan has been opened to commerce

with the world her foreign trade has grown to more than \$100-000,000 annually. Only a bare commencement has been made with China. The troubles in that empire have opened the way for increased acquaintance and commerce, and what has happened with respect to Japan will happen over and over again there and elsewhere throughout all that far Eastern section, so that in a few years the commercial powers of the world will have with that part of the globe a trade that will amount in the aggregate to thousands of millions annually.

Russia, England, Germany and France understand and appreciate what this means, and hence the striving we have seen to secure points of advantage. Russia is building the Trans-Siberian Railroad. She has secured what amounts to practically a concession of Manchuria. England has established her "sphere of influence." France and Germany have made territorial acquisitions; and to-day all the powers represented at Peking are joining in demands upon the Celestial Empire that mean the practical control, for years to come, if not forever, of that whole situation—for China cannot refuse to comply; nor can she accede, without opening her vast dominions and compelling her teeming millions to submit to our acquaintance and trade.

#### THE NEW MARKETS.

There are to be found the markets that will absorb our surplus products. If, therefore, we would keep our mills and mines and factories and shops going at full capacity; if we would keep our labor employed; if we would maintain profitable home markets for our agricultural population, we must have a place in the commercial rivalry of the far East, and must maintain there the rights to which, as one of the commercial powers of the world, we are justly entitled.

This is what makes the Philippines and Porto Rico and the Interoceanic Canal and the Clayton-Bulwer and Hay-Paunce-fote treaties not simply great international political questions, as they are too commonly regarded, but also great practical, business questions that come home with business directness to every man of every class in all our country; and to no class more seriously than to the manufacturers of the United States.

The Philippine Islands give us a base in the very center of

this field of operations, and give us a prestige of commanding character in the great struggle for trade upon which we must enter—upon which, in fact, we have already entered.

I do not speak here to-night of the acquisition of these islands or of anything that has been done with respect to them. On those points there are differences of opinion. But, however we may differ as to what has been done, it has all been done, and the one great pending question of the moment with respect to these islands is whether or not we shall retain them and go forward in the work upon which we have entered. From you, as an intelligent class of business men, interested in our national and international commerce and trade, there should come but one answer.

The question is not alone whether we shall do our duty toward the Filipinos, whether we shall treat them this way or that, or whether we shall discharge our international obligations, but also whether we shall do our duty by ourselves; by the people who constitute this great country, and who are interested in its development and in the multiplication of the wealth and happiness of all sections of our land.

To surrender or abandon them now would be, in a commercial sense, if in no other, an act of supreme folly. It is the same as to Porto Rico. In and of itself, as a mere acquisition of territory, that island is of but little value. But it is situated in the Carribbean Sea, and is of the utmost importance to us in the control of that water and

#### THE NICARAGUA CANAL,

which, although still only "a dream of the ages," as it has been termed, is, yet, nevertheless, destined to be a practical reality of the near future.

The experience of the Oregon was an object lesson. It made manifest to the whole American people that an isthmian waterway was not only an important utility, but an absolute necessity to our commerce and defense. Congress has taken up the subject in earnest. In the Senate almost the whole of the present session has been devoted to its consideration, for the Hay-Pauncefote treaty, which we have just ratified, and which I am not at liberty to discuss, is but a clearing of the way for the work. It is a majestic enterprise. It will

cost more than \$200,000,000. Ours is the only Government in the world financially able to build it. Ours is the only Government willing to build it. Ours is the only Government that would be allowed to build it. Our Government intends to build it, and will build it.

It will be American in construction, American in ownership, American in control, but in no spirit of hostility to any other country, and least of all to England, for it will be free to the use of all nations in time of peace upon equal terms, and free also in time of war, except only as the United States may find it necessary to make it otherwise to provide for the National defense.

We propose to build that canal, however, not so much with reference to national defense as industrial development. We propose to build it because we recognize what I have been talking about—that we have a great surplus of production for which we must find markets, and that the great markets of the future are those that will be found across the Pacific. It will help us to develop that trade. It will make our Atlantic Coast as near to China and Japan as Europe is; and with Hawaii, Guam and the Philippines in our possession, will give us prestige, influence and commanding advantage in the fierce competition we must encounter.

Not only are all these subjects related to our industrial development, within the scope of the subject you have assigned to me, but also all that has been done with respect to the government of our new possessions has had reference thereto.

Of this character especially was the legislation we have

#### Porto Rico,

about which ex-President Harrison saw fit to say, in an address recently delivered at Ann Arbor, that it involved "a serious departure from correct principles."

All the questions arising upon the Porto Rican legislation are soon to be passed upon by the Supreme Court. For that reason I do not care to discuss them at this time, but it is in order to say that the view taken by Congress, as reflected by that legislation, was creditable to the generosity, the patriotism and the industrial spirit of the American people. We found Porto Rico as poor as poverty could make her. She had no money,

no credit, no system of taxation of any kind. She wanted a civil government and a revenue to support it. We gave her a far more liberal civil government than was ever given to any territory prior to the Civil War, so far as participation in it by her people is concerned, and we dealt by her more generously, in providing support for that government, than we have ever yet dealt with any territory.

In requiring her to pay tariff duties on imports from foreign countries we did only what we did with Louisiana, Florida, California and all our other territories; but in allowing her to put those duties, when collected, into her own treasury for the support of her local government we did what was never done before for anybody else; for in all other cases we have not only required the payment of these same duties, but we have also required them when they were collected to be paid into the National Treasury at Washington for the common benefit of the whole country; and, as to duties on commerce between Porto Rico and the United States, we did not levy 15 per cent., but we remitted 85 per cent, of the existing rates on a number of articles, and the whole duty on all the rest, and provided that the 15 per cent. should be remitted on and after the 1st of March, 1902, or sooner if the Legislature of Porto Rico shall so provide, and that in the meanwhile all collections of this 15 per cent., both there and in the United States, shall be paid over to Porto Rico for her own support. We made this provision because it was the easiest and least burdensome way possible to raise indispensable revenue for their government, and not because it was in any sense of any benefit to either our Government or our people.

The Porto Rican Legislature is now in session, but neither that body nor any member of it, nor anybody else, has taken any step to repeal or alter the tax system so imposed by Congress. On the contrary, all concerned alike testify to the highest satisfaction with what Congress has done, and the request will be almost unanimously made that the provisions enacted may be continued, if not indefinitely, at least until some satisfactory system of property taxation may be substituted.

In addition, it should be stated that Congress also in the

same generous spirit, exempted Porto Rico from all internal revenue taxation—another favor never before extended to any part of our people anywhere.

Yes, it is true that the legislation for Porto Rico was a "departure," but it is not true that it was a departure "from correct principles."

Congress felt that we could afford to be generous and kind to the people of that island, and that for a few years we could afford to protect them from the burdens of the property and internal taxes that all the other people of the United States pay and have ever been required to pay, and we legislated accordingly. No right has been withheld from them that was not under the same circumstances withheld from the people of Louisiana, Florida, California and all our other territories, and which is not to-day withheld from the people of Alaska, and no new or strange burdens have been imposed upon them, but we have simply lightened those that all must bear.

We made this "departure" to lift that people out of the poverty and despair in which we found them and to give them an industrial development that is rapidly bringing them prosperity and happiness. This legislation was necessary to our own industrial development.

#### Power of Congress.

The majority in Congress believe that we can legislate for Porto Rico and the Philippines as their wants, their conditions and their happiness may require, and that at the same time we can distinguish between them and ourselves for our own protection. Men who think otherwise mistake the relation to us of these islands.

They are not a part of the United States, but only possessions that belong to the United States, and it seems to me that even a man from Indiana ought to be able to take time to figure that out. Let me quote from what I had occasion to say when this subject was under consideration some months ago. I then said:

When we acquired Louisiana, Florida, and New Mexico, it was provided in the treaty in each case that the inhabitants should be incorporated into the Union of the United

States and be admitted to all the rights, advantages and immunities of citizens of the United States.

The act by which we annexed Hawaii declares in express terms that the Hawaiian Islands shall become and be a part of the United States. But no such provision was incorporated in the treaty of Paris as to Porto Rico and the Philippine Islands and if there had been it is safe to say that treaty would never have been ratified. On the contrary, for the purpose of making it clear that no such consequence was intended it was provided in the treaty that—

"The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress."

This provision was insisted upon by our Commissioners, and was necessary to the ratification of the treaty, because we had then too little knowledge of the people of the Philippines, and not enough of those in Porto Rico to know whether it would be wise or desirable to incorporate them into our body politic and extend to them the privileges and immunities of American citizenship, and undertake to govern them under the Constitution and subject to its restraints and requirements.

In other words, the Congress had plenary power over the whole subject by the terms of the treaty itself; but Congress had this same power under the Constitution.

The third section of the fourth article of the Constitution provides:

"Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

#### MAKES A DISTINCTION.

The Constitution, by the language of this provision, draws a distinction between the United States and territory "belonging" to the United States and places such territory on a par with "other property," so far as the power of the Congress to deal with it is concerned. Congress can sell or give away—dispose of—territory that simply belongs as property to the United States, but no one has ever pretended that the Congress has power to sell or part with any portion of the United States.

Congress must govern the United States according to the Constitution, which is the organic law of the Union, but it can govern a territory that simply 'belongs' to the United States as it may think best, restrained only by the positive prohibitions of the Constitution and the general spirit of our institutions, which is above all written law.

The doctrine that the Constitution follows the flag, ex proprio vigore, to newly acquired territory at the moment of acquisition, did not originate at Ann Arbor, but with John C. Calhoun, and was advocated by him for the first time in the debates preceding the legislation establishing the territorial governments for New Mexico, Arizona and Utah, and he advocated it in the interests of human slavery to carry that institution into those Territories.

Thomas H. Benton, in his "Thirty Years in the United States Senate," on Page 713, Vol. II, has this to say of the origin of this doctrine, its purposes and its character:

"A new dogma was invented to fit the case—that of the transmigration of the Constitution (the slavery part of it) into the Territories—overriding and overruling all the antislavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication, either by Congress or the people of the Territory. Before this dogma was proclaimed efforts were made to get the Constitution extended to these Territories by act of Congress; failing in these attempts, the difficulty was leaped over by boldly assuming that the Constitution went of itself—that is to say, the slavery part of it.

"History cannot class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution. The Constitution does nothing of itself—not even in the States for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a territory unless imparted to it by act of Congress."

Mr. Benton was none too severe in his comments. If the Constitution had such migratory powers it would involve us in all kinds of embarrassments and weaknesses. Territory once acquired could never be parted with, because a part of the United States, no matter how undesirable it might prove. If instead of stopping when we did in the Spanish War, we had gone on and taken Spain itself, it would have been no longer Spain, if we had concluded to hold it, but the United States, to be gov-

erned according to our Constitution, no matter how inapplicable and unsuited to that people its provisions might be.

If we should discover a new country, the mere act of planting the flag and taking possession would make it a part of the United States, to be governed by the Constitution no matter how unfit its inhabitants for such government.

You have only to pursue the subject to multiply absurd consequences. The truth is our fathers intended, in all matters, and particularly in so vital a matter as the acquisition and government of territory, that our Government should have complete sovereign power—should be the full equal in power of any other sovereign power on earth.

They so declared in the Declaration of Independence when they proclaimed that—

"These United Colonies are and of right ought to be free and independent States; that they are absolved from allegiance to the British Crown, and as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

Such was their declared purpose, and the Constitution gave effect to that purpose by conferring on the National Government the power to declare war, conclude peace, make treaties, and make all needful rules for the government and disposition of territory belonging to the United States.

Pursuant to these powers and in the exercise of them, we had war with Spain. We were successful. We invaded and captured her territory. We concluded peace, and, as one of the conditions, exacted the cession to the United States of Porto Rico, the Philippines, and Guam. All came to us, by the same title. All stand in the same legal relation, unaffected by the fact that some came willingly and others resisting our authority.

#### NOT PART OF UNITED STATES.

Therefore, it follows, if Porto Rico is a part of the United States so are the Philippines. If the Constitution is in effect in Porto Rico as a result of mere acquisition so is it in effect in the Philippines. If duties, imposts and excises must be uniform in Porto Rico, as compared with the United States, so must they be in the Philippines. If the Porto Ricans are citi-

zens of the United States so are the Tagalos, the Sulus, the Igorrotes, the Negritos and all the other numerous tribes and peoples of the archipelago.

If we cannot protect coffee in Porto Rico we cannot protect hemp, sugar, tobacco or anything else in the Philippines. If we cannot exempt Porto Rico from internal revenue taxes we must compel their payment in Luzon and Mindanao. If we cannot levy tariff duties on goods going into Porto Rico from the United States we cannot levy them on goods going from here into the Philippines. If we cannot tax goods coming from Porto Rico into the United States we cannot tax goods coming here from the Philippines. Whatever we can or cannot do in the one case is and must be the measure of our power in the other.

Let us look still further. By the terms of the treaty of peace, Spain already has, for the next ten years, an open door to the Philippines, and if we cannot levy duties on our products going into the Philippines, neither can we levy duties on goods from Spain going into the Philippines, and whatever may be said as to the right of other nations, under "the most favored-nation clause" of our treaties with them, to enter with their ships and merchandise on the same terms accorded Spain, it cannot be doubted that Spain, and, through her, other countries can ship into the Philippines without limitation, and from there here, without restriction or duty of any kind, except only such as we have power to impose on what comes from the Philippines here in our own ships, in our own commerce with those islands, and that would mean free entry for Spain into the whole United States, and for all others who might make of Spain and the Philippines an open door.

Our Constitution is no such misfit as these absurd consequences would indicate. It is a slander upon George Washington and his associates to ascribe to them such a botch work. They never intended to give us a government less than equal in sovereign power to other independent sovereignties. They did not aim to create a pigmy, but a gaint. In the language of the Declaration of Independence, they intended that we should be able to do "all acts and things which independent States may do." They intended that we should grow; that we should acquire territory, and that

when we acquired it we should have power to govern it according to its requirements.

They intended that we should stand not at the foot, but at the head of the nations. We have attained that place. Belittling our power is little business. We need not magnify it. It is sufficient to appreciate what we are. Look up and salute the glory of the hour. We led the relief column to Peking. Our flag was among the first to the rescue. Other powers wait upon our advice and defer to our counsel as never before in all the delicate diplomacy that is following.

We have the confidence and friendly regard of England, Russia, Germany, France, and China all alike. The whole world gives us first rank, and first character, and first purpose, and first place. Only at home is there any denial; only here are our motives aspersed; only among our own people do we hear of usurpations of power, "serious departures from correct principles," subversion of the Republic, the contemplated installation of monarchy and other such slander and nonsense.

All this is both unwarranted and unworthy. These are not narrow party, but broad American questions. They affect and will largely control not only our industrial development, but the honor and good name of the Republic. They are worthy of the best thought and the loftiest patriotism of a great people. Let us appeal to ourselves. If we solve them aright we shall again prove equal to a great task, fitted for a world work, and there will continue to come to the American people greater honors and richer rewards than any other nation has ever enjoyed.

# SPEECH

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# Hon. J. B. Foraker,

United States Senator from Ohio,

BEFORE THE

# Ohio Republican State Convention,

June 24, 1901.



## SPEECH OF HON. J. B. FORAKER,

## BEFORE THE

## Ohio Republican State Convention,

June 24, 1901.

Gentlemen of the Convention: Our approaching election will be the most important held this year in the United States. It is but a state election in name, for it will be distinctively National in both character and importance.

#### STATE AFFAIRS.

The administration of Governor Nash has been so wise, so economical, so just, and so efficient, that it stands absolutely without criticism. There is no issue with respect to it, and none can be made.

The last General Assembly was a model. It enacted only wise laws, and in every way guarded the public welfare.

Our state institutions are all in excellent condition and the financial affairs of the state were never more satisfactory.

If, therefore, only state officers and state questions were involved, we could be safely content to point to the record and claim the people's verdict.

But more is at stake—vastly more—and, therefore, we see the signs of coming battle and must expect determined opposition.

## NATIONAL QUESTIONS.

The Legislature chosen this year will be charged with the duty of electing a United States Senator and redistricting the state for representation in Congress.

We now have two Republican Senators and seventeen Republican members in the House of Representatives. If the next Legislature should be Democratic, we will have but one Senator and not more than twelve Republican Congressmen, and, probably, not more than ten—the number we were allowed the last

time a Democratic Legislature gerrymandered the state—and this reduced representation in the National House of Representatives would be fastened upon us, not simply for the next Congress, but for the next ten years, making a net loss to us of not less than twenty-five votes in Congress for the next decade.

It is this fact that gives the campaign upon which we are entering its National character, and thrusts upon us, whether we would have it so or not, the discussion and consideration of National policies and National questions; and it is for this reason that every vote cast in our state next November will be a vote for or against the administration of William McKinley, just as certainly and emphatically as though he were again our candidate this year, as he was last; for we must, of necessity, by the action we take, indorse his work and give him encouragement, or discredit his record and embarrass his efforts.

## M'KINLEY'S ADMINISTRATION.

His first administration was triumphantly successful, but it could not have been so had it not been supported by a Republican Congress. His second administration can be, and will be, even more illustrious than his first, if we give him that same support; but it can not be, and will not be so, if we withhold it.

All this might be truthfully said as to the election of members of Congress from any state, but it is particularly true when spoken of Ohio.

This is the President's own state. In population, wealth, intelligence and influence we stand in the very forefront. Ohio represents the average sentiment of all the states. When she speaks, the whole country gives heed. Our influence affects the President, affects Congress, affects public opinion, affects public policies, determines public questions and promotes or retards the public welfare.

The achievements of the past four years are still in large measure incomplete and insecure.

We have unexampled prosperity, but a Democratic wave would blight it.

We have unheard of combinations of capital, against which the rights of the people must be guarded without destroying our industries or retarding our development. We have added new luster to our arms and new glory to our flag, but an application of Democratic policies would tarnish the one and dim the other.

We have expanded our limits, advanced our jurisdiction and assumed new responsibilities, but Democratic ascendency at this time would mean abandonment, retreat and National humiliation.

This is not imagination, but serious fact. The record shows it.

## HARRISON'S ADMINISTRATION.

At the close of Benjamin Harrison's administration we were more prosperous than we had ever been before in all our history. We had never known such business activity, such universal employment, such diversity of occupation, such contentment, such widespread happiness, such National credit, or such international commerce.

We were better off than any other people on earth. We should have been satisfied, but we were not. We thought we could do better—and tried—and lost.

We were told that it would not make any difference whether the Republican or Democratic party held the offices; that prosperity did not depend upon National policies, but on natural conditions. We were quickly and painfully undeceived.

## CLEVELAND'S ADMINISTRATION.

The Democratic party came into power. Prosperity vanished and four years of disaster followed.

The soil was as rich, the sunshine was as warm, the rains were as abundant, the seasons were as regular and labor was as eager, but it was all in vain.

The Democratic party was at the helm. Free trade was in the saddle and capital went into hiding; the mills stopped, the mines closed, and idleness, want, suffering, tramps and riot spread over the land.

Commerce waned, the balances of trade turned against us, revenues declined, deficits occurred and multiplied until they amounted to hundreds of millions.

Issue after issue of Government bonds became necessary to meet Government obligations, and the National credit, now so high, became so impaired that a Democratic Secretary of the Treasury would not venture to offer a new issue of bonds for sale until he had organized a Wall street trust to guarantee a market.

Finally, as comes the light of day after a long, black night, came the year 1896, and brought with it another opportunity for the American people. What did the Democratic party then do? Did it acknowledge failure? Did it confess incompetency? Did it apologize for the ruin it had wrought? Did it beg pardon of the wage workers whom it had turned into idleness by hundreds of thousands and upon whose families it had imposed hunger, want and misery by robbing them of millions?

Did it manifest regret for the grief and sorrow with which it had filled the land? Did it show penitence on any account? Did it offer to abandon its heresies, or any of them? Did it show signs of compunction or give any evidence of wisdom

learned from experience?

No, not one of these things did it do, or for one moment think of doing.

## THE CAMPAIGN OF 1896.

On the contrary, it threw overboard its old leaders, nominated William J. Bryan, formed an alliance with the Populists, and, with free silver for a new issue, taking advantage of the bankruptcy and despair it had occasioned, with appeals to prejudice, sought to array class against class, labor against capital, the poor against the rich, that it might retain power.

It was not content to attack only the Republican party. It attacked everything and everybody. It embodied in its platform all the heresies of Populism, socialism, communism and anarchy. Property rights, vested interests, law, order — even the courts themselves — were assailed and placed in jeopardy. No such wild, reckless, destructive and dishonest program was ever before entered upon by any political organization.

The very life of the Republic was involved in the struggle, and conservative, patriotic men, including hundreds of thousands of Democrats, rallied to the support of William McKinley, and, by his election, saved the country, its honor and its institutions.

There is only one intelligent man in America who does not now see that the defeat of Bryan in 1896 saved us from an irretrievable disaster — and he edits *The Commoner*. Had we then added free silver to free trade, the most brilliant chapter in the

economic history of this country would never have been written.

By a return to the policy of protection and by the preservation of the gold standard we brought prosperity to the Nation, exposed the fallacies of free trade and free silver and left the Democratic party without an issue.

## THE CAMPAIGN OF 1900.

Then came the Spanish-American War, with its new duties and new questions. Bankrupt Bryanism took a new lease on political life. Old issues were gone, but new ones were quickly made.

As usual, they involved an attack on the dignity and power of the National Government.

We were told that we had no power to hold and govern conquered territory except as a part of the United States; that the Constitution followed the flag, and wherever we raised the one we must at once apply the other, and that any other government was unconstitutional usurpation which the inhabitants might lawfully resist; that Aguinaldo was a Washington, and McKinley a despot; that the Filipinos were patriots struggling for liberty, and that we were oppressors denying freedom and destroying with the sword; that our flag must come down and our army must come home.

Such were the contentions of 1900. Once more the people sat in judgment. Their verdict was the triumphant re-election of William McKinley and a total collapse of Democratic claims, pretensions and policies.

It seemed as though their day of woe had come. Their flag was in the dust; their columns were routed; their issues were gone; free trade was gone; free silver was gone; idleness was gone; discontent was gone; government by injunction was gone; imperialism was gone; and now, finally, even Aguinaldo is gone. He is no longer a Washington, but an apostate. He has taken the oath of allegiance, and has advised all his followers to do the same. Henceforth he is "impossible" as a Democratic leader.

When Aguinaldo "passed" only one hope remained, and that was the Supreme Court; but now, alas, that, too, is gone.

Under such circumstances any other party would dissolve and die, but not so with the Democratic party. Notwithstanding all, it still lives, as evil lives. From November last until April it appeared to be in a state of becoming humility, occupied with retrospection, introspection

and plans of reorganization.

For the first time in its history it seemed to have a realizing sense of its utter unfitness for public trust and to be seriously concerned with plans to rid itself of Populism, communism and all other isms that marked its departure from Jeffersonian patriotism and Americanism. This was a good work, but it was not completed, and never will be.

Some unexpected local successes at the April election induced the belief that reform was unnecessary; that on the contrary it might improve its chances of success to become worse instead of better. To do that was easier. It required no effort.

The thought was an inspiration.

At once there was a marvelous change. Humility gave way to arrogance, and now again we hear the blare of horns, the rushing of feet and the shouting of Captains.

It is only June, but already, over and over again, in Democratic newspapers and Democratic imagination—there has been

a great Democratic victory in November.

What does it all mean? What has the Democratic party done that entitles it to a new hearing in the people's court? Has it turned a new leaf? Has it abjured free trade? Has it forsaken free silver? Has it cast out Populism? Has it followed Aguinaldo's advice and taken the oath of allegiance? Has it denied any article of its platform? Not one.

Its official declaration of principles remains identically the same bundle of un-American fallacies that the people con-

demned last year, and years before.

## NEW QUESTIONS.

If it has done nothing, what, then, does it propose to do? Can any man tell? Does any Democrat know? Great questions concern us. How will it deal with them? What about a merchant marine, the Nicaragua Canal, Cuba, Porto Rico, the Philippines?

These are stupendous problems. They are worthy of the highest and best thoughts of the greatest men of America. They are of the highest dignity. They are pressing for solution. They cannot be postponed or evaded. Our

power as a Nation, our prosperity as a people, our good name, our honor, are all involved.

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We can not afford to grope in the dark, or guess, or experiment, or halt, or hesitate about such matters.

If we are to send an additional number of Democrats to Congress, how will they speak and vote on these questions?

Are the policies of McKinley to be continued or discontinued? Is our flag to come down or stay up? Where, my Democratic friends, do you stand? We know where you stood last year, but where do you stand this year? What answer do we get?

We are told that although our election has direct reference to our representation in Congress, and to these great National and international questions, yet we are not concerned about them at this time; that the next election is to determine only whether three cent fares shall be charged on street railroads, and whether or not the field and opportunities of the political boss shall be enlarged by municipal ownership of public utilities, and whether or not in the name of single tax the farmers and other real estate owners and holders shall be compelled to bear all the burdens of taxation, while those who hold mortgages and stocks and bonds shall be made a privileged class, and be exempted from all the expenses of the government.

These are not the questions we are now to settle.

They are brought forward only to divert attention from the real issues and because they appeal to the discontented, the disappointed, the visionary, the communistic and the anarchistic classes.

The Democrats have made a great many serious mistakes, but they will scarcely commit the folly of adopting such doctrines. The wise, conservative and patriotic men of that party are protesting against such a course and their voice will most likely be heeded.

But what then? The party will have recoiled from a precipice, only to fall back upon itself. And what is that? "The leopard can not change his spots;" neither can the tiger. The controlling spirit of Democracy means this year just what it meant last year. We could not indorse it then; neither can we indorse it now. If we would continue our prosperity we must uphold the policies that gave it to us. If we would maintain our National credit, and preserve our financial honor, we must keep

out of power the party that destroyed the one and threatened the other. This is no time to dally with free trade, revive free silver or pet Populism.

## DISFRANCHISEMENT OF COLORED VOTERS.

Neither is it a time to show indifference to the wrong the Democratic party is committing today in the Southern States against the black man, whom it is robbing of his suffrage under the forms of constitutional amendments and legal enactments that are in violation of the Constitution of the United States. This is worse, if possible, than the inhuman lynchings of which we read almost daily, because it is without provocation, and is a blow aimed both at a class and the government of a Nation.

Constituted authority must find a way to suppress these wrongs, or the Government will deserve to lose the support of a race that has shed its blood for our flag in every war, and upon almost every field where it has waved. Brave, heroic, gallant men were they who, side by side with their white comrades, have borne our flag to victory in all our wars. They helped us to conquer our independence, to form our Union, to preserve our National life, to carry liberty and freedom to Cuba, and to plant our banner of victory on the islands of the seas. They are entitled to the protection of the Government for which they so bravely fought. It is an inexpressible shame that such protection is denied. As they have shared our labors and perils, so must they share our rewards. In what way their rights will better be secured is an unsolved problem, but until they are fully protected, and Democratic persecutions and denials of constitutional rights have ceased, there should not be any restoration of the Democratic party to power.

#### EXPANSION.

But there are other questions of the highest importance. We are beset with new and untried difficulties. We have had a war. We have changed the map of the world. We have acquired new territory, and with it have come to us new duties and new responsibilities. We have assumed them, and must faithfully discharge them or stand discredited before the nations.

The Republican party has an intelligent policy on this subject. It has been proclaimed to the world. We have acted upon

it. We have legislated to carry it into effect. We are executing it with successful and triumphant results. It should have universal support, but instead it has fierce opposition. It was attacked last year as unconstitutional. The Supreme Court has answered that assault, and they are now attacking the Supreme Court.

Mr. Bryan declares that its decision in the Porto Rican cases is as infamous as the decision in the Dred Scott case, and calls upon Democrats everywhere to rally for its overthrow.

Senator Tillman denounces it as damnable, and says that we are to have a battle to the death before it is finally accepted. Other Democrats, great and small, say it means the end of the Republic; that McKinley is Emperor; that our liberties are lost, and all join in declaring that the next great political contest will be as to whether this decision shall stand. If they see fit to make such an issue we can afford it. It will be the President, the Congress and the Supreme Court—all the departments of the Government — on one side and the Democratic party and its allies on the other.

It will not be the first time we have had such an alignment of forces, and, as always heretofore, patriotism and Americanism will triumph.

### PORTO RICO.

When we came to legislate for Porto Rico we found there 1,000,000 people, more than 500,000 of whom did not own one dollar's worth of any kind of property, and more than 800,000 of whom could not either read or write in any language. None of them knew anything about our institutions, our laws, our judicial system, or anything else connected with the practical administration of free popular government.

They had no system of property taxation, no school system, and scarcely any kind of social order or organization. They had been wasted by war and devastated by hurricane. They were helpless as children. From the first moment of our occupation it was necessary to feed and support them by tens of thousands to prevent starvation.

If the Constitution and all the laws of the United States, not locally inapplicable, had followed the flag and gone into force and effect there as soon as it was raised, as the Democratic party contended, it would have been impossible to have relieved

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their distress or to have established a successful government of any kind. Instead of peace, order and progress, which we have in that island today, we would have had universal chaos and universal failure.

Such a theory would have required all tariff duties on imports into Porto Rico from foreign countries to be collected and paid into the Treasury of the United States at Washington, not for the benefit of the people of that island, but for the common benefit of the whole people of the United States.

It would have required the imposition of our heavy internal revenue taxes without ability on their part to pay, or on our part to collect.

It would have required the immediate substitution of our laws for theirs, and their faithful observance of them before they had opportunity to know or to learn what they were.

It would have required the immediate introduction of our codes of procedure in civil and criminal cases without even the Judges on the bench, or the lawyers at the bar, knowing how to put them into operation.

To have adopted such a construction of our Constitution would have made the Filipinos and the Porto Ricans, most of whom are wholly unprepared to govern themselves, citizens of the United States, with full power to participate with all other citizens in governing us. There is no end to the difficulties and the absurd consequences that would have ensued.

Such a construction of that instrument would have been a libel on George Washington, and to his illustrious associates who framed it. To hold that it so restricted our power would be to deny us an essential attribute of sovereignty, and make us inferior in the family of nations. It would have made us incapable of protecting our rapidly increasing commercial interests in distant parts of the earth. It would have been not only the end of expansion, but also a denial of the power necessary to the control of the Caribbean Sea, and the approaches and natural defenses of an isthmian canal. It would have been worse than a mistake. It would have been a stupid crime against the progress and development of our country.

We rejected all such belittling and un-American views, and proceeded on the theory that our Government has all the power of the most powerful; that we are rightfully at the head of the nations in sovereign power as we are in physical and political power; that our constitution is the Constitution of the United States of America, but not the constitution, also, until Congress so provides, of the territories and possessions belonging thereto, no matter where situated or how inhabited. We think the Constitution means what it says when it provides that "the Congress shall make all needful rules and regulations respecting territory or other property belonging to the United States."

When we read in the Constitution about the United States, and then also about territory that simply "belongs" to the United States, we think it clear that our fathers contemplated that territory might come under our jurisdiction and into our possession without becoming a part of the United States, and that territory that simply "belongs" to us is to be governed under the clause referred to, as Congress may prescribe, and that it is the duty of Congress, in so governing, to meet the necessities of the inhabitants of such territory and promote their welfare.

It was for this reason that in legislating for Porto Rico we provided that our internal revenue laws should not be applied there, and that all tariff duties that might be collected should be paid into the treasury of Porto Rico, for the support of its government, instead of being paid into the National Treasury, as has been done in every instance heretofore. All we have done in Porto Rico has been authorized by the Constitution, and has been done, not to oppress the people of that island, but to generously and magnanimously relieve them from burdens they were unable to bear, and thus aid and encourage them in an effort to establish industries, develop agriculture, make needful public improvements, inaugurate systems of education, and lead on, by gradual and safe approaches, to order, prosperity and the assimilation of American institutions.

As a result they have more prosperity, more contentment, more happiness, more schools and more promise for the future in Porto Rico today than they have had in that island at any time before during the last 200 years.

Since our legislation took effect productions have increased, business has multiplied, the demand for labor has grown, wages have advanced, schools are rapidly increasing, and the hearts of the people have been warmed with affection toward our flag and gladdened with visions and hopes heretofore unknown.

Although our laws provided for the collection of duties on certain articles of commerce between Porto Rico and the United States until March 1, 1902, our success has been so complete that already a special session of the Legislature of Porto Rico has been called to meet on July 4 to pass a resolution declaring the collection of such revenue no longer necessary, and thus make it the duty of the President to issue his proclamation giving Porto Rico absolute free trade with the United States.

What the Supreme Court decided was, that all this was within the power of Congress, and that it must be upheld and

enforced.

That decision will never be reversed. Men may denounce it and rave about it, but, as the years go by, its wisdom, beneficence and sound judgment will stand out more and more conspicuously.

### THE PHILIPPINES.

It has come at an opportune moment. The great work of the hour is the establishment of a stable and successful government in the Philippines. Had the Democratic view prevailed this would have been impossible. The way is now clear and well defined. We can go forward intelligently.

This is not a mere political matter. It is also a practical business question, affecting all classes of American people, and no class more directly than our wage-workers. We have reached a point in our industrial development where we produce more than we consume. We must find markets for the surplus or quit producing it. We can not restrict without cutting down the pay-roll. That is one thing the Republican party never shortens, but always lengthens.

We can get partial relief by tariff revision and reciprocity treaties with European and South American countries, but measured by the possibilities of future increase and development, the greatest markets of the world are in the Far East. We want our fair share of them, and intend to have it, and the way to secure it is not to haul down the flag and run away, but to remain and hold on to the position, the prestige, the advantage and the opportunities that we now enjoy.

When men talk about overthrowing the Supreme Court decisions in the Porto Rican cases they are striking also at the Philippines and are raising issues that not only affect the vital

character of our government, but also affect the wages of every man in the United States who eats his bread in the sweat of his face.

It seems surprising that any party could take such a position, and yet it is just like the Democratic party to do so, for during the last fifty years it has never conceded to the general Government any disputed power, nor struck one lick for labor.

It denied the power to preserve the Union. It denied the power to abolish slavery; it denied the power of reconstruction; it denied the power to protect our industries; it denied the power to establish the gold standard, and now it denies the power to hold possessions, and govern them according to common sense, although the constitution itself expressly so provides.

And as to labor, although constantly posing as its friend and champion, it has been at all times its inveterate enemy.

It was the enemy of labor when it upheld slavery by which all labor was disgraced and degraded. It was the enemy of labor through all the years of its opposition to a protective tariff by which we saved the labor of this country from competition with the underpaid labor of Europe. It is the enemy of labor now in its contention that we have no power to protect the wage workers of America from the cheap labor of our possessions in the tropics and the Orient; and yet we hear, year after year, Democratic appeals for the electoral support of the wage workers of our State and country, based on the assumption that the Democratic party is the special friend and guardian of all who toil.

#### AMERICAN WAGE WORKERS.

The laboring men of this country are men of brains, of intelligence, of judgment, of keen memory and of good associations, and, therefore, they have denied these appeals; they will deny them again, for they know that if Democratic ideas prevail, prosperity will vanish and the pride and glory of the hour will turn to shame and humiliation

## M'KINLEY.

Whatever else we may be, let us be Americans, and be worthy of the events with which we are associated. This is a great history-making epoch. Except only Washington and Lincoln, no president has had such opportunities as have fallen to Mc-

Kinley. Not one has escaped him. All have been improved to the honor and glory of the Republic. No emergency has arisen that he has not triumphantly met, and no duty of war, peace or diplomacy has been so delicate or so difficult that he has not performed it grandly and successfully. All his achievements are the Nation's. His fame is ours. It fills the earth. All races honor and applaud him. The single note of discord is here, at home, among ourselves and under our own flag. It misrepresents the American people. It misrepresents the people of Ohio. Their verdict in November will so declare.

## H Cestimonial

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to the Public Services of Hon.
Joseph B. Foraker.

"No man ever worked his passage anywhere in a dead calm."

John Neal.



## PREFACE.

I have prepared this statement pertaining to the public services of Hon. Joseph B. Foraker, purely on my own motion, without solicitation or even suggestion from Senator Foraker, solely from a sense of public duty, because of the national importance of his valuable and distinguished work in the Senate of the United States. Being a newspaper man, I have watched and closely noted the trend and scope of his work in its national bearings, and have thought it well to make the people of Ohio familiar with the same in some degree at least, to the end that they may the more intelligently act when they determine, as they must next November, whether his services are to be continued. To that purpose it is cheerfully dedicated as a gratuitous contribution from me to the work of the pending campaign.

J. G. Gest.

Washington C. H., O., July 24, 1901.





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There clusters around the rise and work in life of celebrated men, a singular and abiding interest which augments in public fervor, as such characters develop the high qualities of the powers of their genius. The history of the deeds of great men in all ages of the world and in all countries, is tinged, either with romance, or dazzled by the brilliancy of their chivalrous personal achievements over obstacles.

Many of the renowned successes of the world in science, literature, and statesmanship have attained the goal of human ambition and won the applause of mankind by acquired ability and the exercise of dauntless courage to achieve their aims; few, by real genius and the native powers of their endowments. The truer elements of success are more forcibly illustrated by the latter class of great men, the lives of whom form an enchanting story, in poetry and prose, from Homer to this modern day. The examples of such lives form the greatest incentive for Herculean endeavors to attain an enviable renown.

American characters, in American Statesmanship, who have indelibly impressed their distinct existence upon the times in which they lived, invariably are found to be not only the architects of the fame which lives in cherished veneration, but are likewise the builders of new and substantial creations in character building. The successes and gifted endowments of Joseph B. Foraker, a United States Senator from Ohio, in both early and more mature career, form an instructive page in history and should have a beneficent influence upon the ambitious youth of America. In him we find such a delineation of character embodied in his triumphs, that, his age compared with other statesmen before him, he is readily pronounced, while not in his zenith, one of the most brilliant and strongest characters on the national stage of action. By reason of his ardent patriotism and loyalty, learning and

natural gifts, prudence and ability, his course in life reflects and glistens as a beacon light among the breakers of failures along the coast of human endeavors and disappointments. Born in Highland County, Ohio, he toiled on a farm, enjoying but the customary meager opportunities for attending the district country school, though his strong attributes of character marked him at this early age as a youth of great reserve power and creative force. He was fearless, aggressive, with the art of courtesy which so often expresses itself in pleasing manners, making his personality one of unusual attractiveness, which in the light of time the words of Emerson in part do apply:

"Give a boy address and accomplishments, and you give him the mastery of palaces and fortunes wherever he goes; he has not the trouble of earning or owning them: they solicit him to enter and possess."

However, it was destined that the subject of this sketch was not to unlock the treasures of true greatness by the simple methods of chance; the master keys in his hands were not alone address and accomplishments, but he possessed fortitude, self-reliance, and fidelity with which against both wind and tide, he won the day to the summit of American statesmanship. Young Foraker, in 1862, a mere youth at the age of sixteen years, enlisted as a private soldier to serve for three years. This young soldier of dash and spirit rose rapidly from the rank to a captaincy in less than three years' service in the field, performing distinguished deeds of valor at the age of less than nineteen years. An incident of the battle of Bentonville, related in an address by General William T. Sherman, at the reunion of the Army of the Tennessee, illustrates the feelings and sentiments of patriots for this young soldier of 1864:

"——Well I remember you, my young friend (turning to Governor Foraker) or boy, as you came through the pine woods that day on your horse covered with lather and came up like soldier knight and reported to me the message from your General Slocum. —A knight errant with steel cuirass, his lance in hand, was a beautiful thing, and you are his legitimate successor. —I wish you all honor, all glory, all fame. I wish you may rise to the highest position this American people can give you."

Patriotism and constitutional liberty never had a more sincere and fearless champion in the days of its greatest trial than was this fearless young soldier, whose personal courage in the performance of his duty was without ostentation, which appropriately recalls to memory the lines of Longfellow:

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"The talent of success is nothing more than doing what you can do well, without a thought of fame."

From war we find the young hero, so eloquently described by that grizzled old veteran of the war, General Sherman, leading his classes in Cornell University; later an attorney at law leading his profession in Cincinnati; and when still a youth elected to the bench where by his erudition in law he continued to lead, gathering new laurels by his indefatigable industry. Not yet having attained the age of forty years, he was elected Governor of Ohio in 1885 and re-elected in 1887. His occupancy of the Governorship was a marked epoch in the history of the State. No blemish was on her escutcheon while Joseph B. Foraker was Governor. In his work, like he always is in the performance of duty, he was peerless.

His ability to acquire friends and to retain their confidence and their friendship is due to his fidelity. He keeps his pledges to his friends and is magnanimous to his political combatants. As Governor, no man ever had a more faithful and honorable following. President Wm. McKinley, in one of his brilliant speeches, supporting Governor Foraker for re-election, said:

"He has made one of the most magnificent Governors this commonwealth (Ohio) has ever had. He has been bold, he has been honest, he has been just, he has called things by their right names. He has given to the state one of the best administrations we have ever had. It has been absolutely clean."

He developed in the discharge of gubernatorial duties his great powers, decision, activity and clearness of mind, and his ready application of facts and principles to the subjects before him. He proved himself pre-eminently the man for emergencies. By reason of his intuitive judgment of character and of the motives of men, these superb qualities, combined with his firmness of purpose and confidence in himself, marked him as a leader of men. While Governor he became distinguished for executive ability of no ordinary character, which made his name familiar throughout the nation.

A number of reforms were instituted and carried to a successful completion. In finance, his work on behalf of the state was remarkable. He funded a part of the State debt at a lower rate of interest than any State debt had ever been funded in the Union. Not only that but he made the tax levy lower than it had been in the State for forty years.

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He was four times nominated for Governor of Ohio and twice elected. He always has been an influential leader in the councils of the Republican party. In 1884, 1888, 1892, 1896 and in 1900 he was unanimously chosen by the Republicans of Ohio as one of the delegates at large for Ohio to the National Republican Conventions, always taking a leadership in the deliberations of the conventions which was conspicuous in party history.

Retiring from executive duties in January, 1890, he resumed the practice of his profession. In 1896 he was chosen by a unanimous vote of the Republicans of the General Assembly of Ohio, to succeed Hon. Calvin S. Brice in the Senate of the United States.

#### IN THE SENATE.

Thus, briefly, we have noted his services until his entry upon the broad stage of active national, political life, a position commensurate with his genius and attainments. As a United States Senator from Ohio, representing one of the greatest commonwealths of the nation, in the greatest free government on earth, he has sustained the acknowledged distinction of Ohio for producing eminent statesmen. He entered the Senate March 4, 1897, and during the past four years of service has proven himself one of the most brilliant constitutional lawyers of the Senate and has established the highest claims for statesmanship.

The Ohio Republican State Convention, held in June, 1901, declared: "Senator Foraker has rendered splendid and conspicuous service to our country during his term in the United States Senate, and we earnestly indorse him for a second term."

His successor will be chosen by the legislature elected this year in Ohio. He is the candidate of the Ohio Republicans for reelection to a position in which he has so signally honored the people of Ohio.

He has served only four years but it has been a history-making period; events can only be mentioned, not described. Closely following his entrance to the Senate problems of grave character confronted the country. Chief among them was the Cuban question, which soon became paramount, and from which situation eventually came war and the possession of insular territory by the ratification of the treaty of Paris.

## THE CUBAN PROBLEM.

No question since the declaration of Secession and the fall of Fort Sumter devolved upon the national administration more grave responsibilities than were imposed by the rapidly gathering war clouds from the Southern seas. Spain, the tyrant for centuries, having effectually failed in her purpose to subdue the insurrection in Cuba by military power, resorted to the inhuman policy of extermination by starvation, which horrified the world, forced the issue of intervention and the liberation of Cuba.

At this period in our national affairs, the situation was chaotic; patriotism was master of the craft of state, but beyond this point all lines diverged from the most extreme conservatism to radical impracticability. The times called for a leader, as well as for statesmanship, in the American Congress. In an able and exhaustive special message, firm but conservative, President McKinley gave over to Congress the solution of the question, recommending, however, that we should not recognize the independence of Cuba but intervene, if further negotiations should fail and that should be found necessary, as a neutral, merely to end the struggle by a hostile restraint of both parties and a restoration of order and the establishment of government.

While agreeing fully with the President on the general propositions and as to the general purposes to be accomplished, Senator Foraker differed with him on these particular points. He believed that we should recognize the independence of the people of Cuba and also recognize the insurgent government, and that our intervention should not be neutral in character, but in hostility to Spain; his idea being that there never could be a lasting peace established in the island until Spain as a governing power was expelled therefrom. Accordingly on the 29th day of March, 1898, he introduced the following resolutions of intervention, which were referred to the Committee on Foreign Relations, and, by a unanimous vote of that Committee, with slight changes, reported favorably, except

the second, as to which there was a minority report, signed by Senators Turpie, Mills, Daniels and Foraker, recommending that it also be adopted. The following is a copy of these resolutions:

Be it Resolved, By the Senate and House of Representatives of the United States of America,

- 1. That the people of the Island of Cuba are, and of right ought to be, free and independent.
- 2. That the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island.
- 3. That the war Spain is waging against Cuba is so destructive to the commercial and property interests of the United States, and so cruel, barbarous, and inhuman in its character as to make it the duty of the United States to demand, and the Government of the United States hereby does demand, that she at once withdraw her land and naval forces from Cuba and Cuban waters.
- 4. That the President of the United States be, and he hereby is, authorized, empowered and directed to use, if necessary, the entire land and naval forces of the United States to carry these resolutions into effect.

In the debate on the passage of these now famous resolutions Senator Foraker on Wednesday, April 13, 1898, delivered his great speech on the "Cuban Question," showing that independence and sovereignty go hand in hand, and that according to international law the lost authority of Spain over the Island of Cuba coupled with the conditions there existing, opened the way for both recognition and intervention, and that our interest and duty commanded both. It is impossible in such a sketch as this to analyze and indicate in detail the points of such an argument. It must be read to be fully appreciated. It is sufficient to say here that he supported all his propositions with the force of facts and the logic of reason. Some idea of the character of the speech may be gathered from the following closing paragraphs:

Mr. President, I have not at any time had any trouble in my mind about independence and intervention, but I have had this kind of a trouble in my mind: The trouble has been whether it should be independence and intervention or independence and a declaration of war outright. I think, logically speaking, it ought to be a declaration of war, and I would be standing here arguing for such a declaration if I were not of the opinion that armed intervention will give us an opportunity to suitably punish Spain for the destruction of the Maine and 266 of our officers and sailors. [Applause in the galleries.]

The PRESIDING OFFICER. Order must be observed in the galleries or they will be cleared.

Mr. FORAKER. We have been told, Mr. President, that the board of inquiry appointed by our Government by its report has estopped us from such a declaration. I dispute it. It is true that the board of inquiry found that they could not tell what person or persons were responsible for that disaster, but the context shows that in that connection they had reference only to the question what person or persons pressed the button that sent the electric current on its fateful mission; and that, Mr. President, is immaterial in the light of the other facts unequivocally found by that board of inquiry.

That board of inquiry has officially found—and it is a most conservative report throughout; as the President well says in his message, all Americans have absolute confidence in the truthfulness of it—that board of inquiry found that our ship went into that harbor on a friendly mission; that the Spanish authorities were advised in advance of her coming; that she was coming not for warlike purposes, but only on a mission of peace, to cultivate better relations with Spain—a courteous visit in recognition of the friendly relations, of which we have heard so

much, between Spain and this country. The court further finds that when our ship reached the entrance to the harbor she was taken in charge by a Spanish official—the harbor pilot—and by him towed to buoy No. 4 and there made fast, and there stationed during her stay in that harbor, and that while she was there stationed she was destroyed by a submarine mine. That is the finding.

What, Mr. President, is a submarine mine? Did any Senator ever hear of any private individual having submarine mines on sale, or of any private individual handling submarine mines, especially in a territory where war is present? And does not every Senator know that under the laws then in force in Havana, by the edict of Weyler issued on the 16th day of February, 1896, no private individual could have in his posesssion any kind of an explosive, not even a pound of gunpowder, without being liable to the death penalty? Do you imagine that any private individual, with that kind of a law in force there, were engaged in handling submarine mines?

No, it is an absolute absurdity, it seems to me, for us to imagine that the submarine mine that destroyed the battle ship Maine was anything else than a governmental implement and agency of war. Suppose, for illustration, instead of that ship being destroyed by a submarine mine, as she was, she had been sunk by a shot fired from Morro Castle, under the guns of which she was buoyed. Would any Senator in such instance imagine that there could be any question about that piece of artillery being a governmental agency and implement of war? Would anybody stand up and question that it was a governmental agency under the control of government officials, and that the Spanish Government could be held liable by us for the result of the discharge of that gun as a hostile act of war?

Mr. President, the gun was not any more a governmental agency than this mine was. The gun was

not any more under the control of the government than this mine was. The gun was not any more subject to governmental control and to be discharged by governmental agencies than was this mine.

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But if it had been the case of a discharge from a gun, what would Spain have done? Why, the whole world would have recognized that we were bound to assume that it was an act of war. Spain would have recognized it. How could she have escaped from the consequences? Only in one way, and then she would have remained liable for all damages that occurred. She could have escaped from the conclusion that it was an act of war by immediately disavowing and immediately establishing by incontrovertible proof that it was an accident, if such a thing were possible.

Mr. President, the same rule that would apply in the case of the gun, does apply, and did apply, in this instance. And, Mr. President, the significant thing is that Spain admitted by her conduct that it applied. What did Spain do? Instantly she disavowed, just as she would have done in the case of the gun, and instantly sought to establish her innocence by proving that it was an accident.

No wonder, Mr. President, that she seized upon the theory that it was an accident when our own Government was everywhere proclaiming that it was an accident. She sought to establish that it was an accident; she pitched her defense on that proposition; she took her testimony; she made an official report. It is before the Senate. She finds in that report that the *Maine* was destroyed, not by an external agency, but by an accident, by the explosion of one of her magazines.

Mr. President, that report is a lie to the living and a libel upon the dead. It is on its face absolutely and conclusively false. There is one circumstance that will forever keep it branded as such, as it now is, and

that is the fact that the keel plates of that ship after the explosion were found 34 feet above where they should have been found as the ship rests on the bottom of that harbor if there had been no explosion, and the bottom plates of the ship are bent upward like an inverted V. like my hand [illustrating]. Do you think an explosion from within would have bent the keel plates upward, would have drawn them up through the decks on that ship a distance of 34 feet, and would have bent them in that manner? No; you can not think that until the laws of nature have been changed. They have not been changed yet. They were still in operation then.

Now, what is the effect of this fact? Spain recognized that she must make a defense. She chose to call it an accident; she so reported. This one fact—the present condition of the keel plates—absolutely wrecks and destroys her whole defense as completely as the *Maine* was destroyed by her submarine mine. What is the result? The result of it is that Spain stands to-day convicted by her own effort at defense, convicted in the presence of the nations of the earth, of that hideous and cowardly crime.

What is our duty in view of it? Mr. President, we owe it to the brave men dead to vindicate their reputations from the brutal charge that they died of their own negligence. We owe it, Mr. President, to the splendid record of the American Navy to preserve it from the tarnish that is sought to be put upon it. We owe it, Mr. President, to our own good name among the nations of the earth that the perpetrators of such a cruel outrage shall not go unwhipped of justice.

No nation can afford to pass by such an affront as that in silence. This is not a case for the application of the Scriptural injunction about the turning of the other cheek, but it is a case, Mr. President, for the application of that other Scriptural injunction, "An eye for an eye, and a tooth for a tooth."

It is not morality, it is not Christianity, it is not religion, it is not common decency, it is not common sense, but only a maudlin sentimentality to talk in the presence of such circumstances and facts about the horrors of war. War is horrible, always to be deplored, and ever to be avoided if it can be avoided consistently with the dignity and the honor and the good name of the nation. But, Mr. President, much as war is to be deplored, it is a thousand times better to have it in a case like this than to be written down before all the nations of the earth as pusillanimous—as wanting in pluck and courage.

Yes, Mr. President, business interests may be interfered with, loss of life may occur, all apprehended evils may result, but no matter what the cost, in the presence of this great commanding duty we must go forward. The time, I repeat, for diplomacy has passed. The time for action has come. Let the doubting, the hesitating, the opposing, go to the rear, while the virile, strong-minded, patriotic, liberty-loving masses of the American people, coming from all the sections and all pursuits and avocations of life, rally as one man around our gallant Army and Navy, and taking the flag of our country carry it on to triumphant victory. [Applause in the galleries.]

A victory, Mr. President, for civilization over barbarism; a victory for the right and capacity of man to govern himself; a victory for the Western Hemisphere; a victory for Cuba; a victory for freedom and liberty and independence; a victory worthy of the descendants of the heroic men who achieved our own independence, and worthy of the successors of those heroic men whe have since preserved and perpetuated our priceless heritage. [Applause in the galleries.]

The speech in its effect on Congress and the country at large marked an historic event in the history-making period of the Spanish-American War. The Senate adopted the resolutions, including the second, as recommended by the minority report, by the overwhelming vote of 67 to 21, but the House of Representatives refused to concur as to the second resolution, and, by the Conference Committee, of which Senator Foraker was Chairman on behalf of the Senate, it was finally omitted, in a spirit of compromise, and thereupon the other three resolutions introduced and reported by the Committee, as above set out, together with a fourth offered by Senator Teller, were adopted by both Houses of Congress and at once approved by the President.

These resolutions as finally adopted were as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the Island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

War with Spain soon followed, to bring with its termination greater and more difficult duties and responsibilities, involving deep and intricate international and constitutional questions. They were

raised by the Treaty of Paris and came on for discussion in the Senate when that document was sent there by the President for ratification. Senator Vest, of Missouri, undertook to state the Democratic position by a resolution which he introduced for debate in open session, denying to the government constitutional power to acquire, hold and govern territory except only with intention to ultimately make it a state of the Union. The debate on this resolution was extended, interesting and elaborate. Senator Foraker spoke in opposition to it on January 11, 1899. The speech covered every phase of the controversy and attracted the attention of the whole country, but little more can be done here than to merely call attention to it as one of his most important and efficient services. He planted himself in the beginning of his argument upon the following declaration:

It is an elementary principle of international law, that you will find stated by every writer upon international law, that each and every independent sovereign nation is equal to each and every other independent and sovereign nation of the earth—equal in power, equal in duty, equal in right, equal in obligation. To adopt this resolution is for us to declare that our fathers, who framed our organic law, either unwittingly or intentionally brought forth a nation and gave it a place in the family of nations unequal, inferior in rank, to the other sovereign and independent nations of the earth; and that, Mr. President, I am not willing to concede.

In this speech he answered in detail all the propositions that had been advanced in favor of the adoption of the Vest resolution and reviewed all the leading decisions of the Supreme Court of the United States applicable, giving special attention to the Dred Scott decision, upon which Senator Vest in his argument had chiefly relied. His remarks excited the keenest interest of his colleagues and he was subjected to many interruptions and called upon to answer many difficult questions.

The following passage shows the character of his argument and his ability and readiness in debate:

I come now, Mr. President, to the speech of the Senator from Massachusetts [Mr. HOAR]; and before I undertake in my humble way to say in answer to it what I feel moved to say I wish to state that I listened to it with the very greatest interest, as I always listen to anything that is spoken in this Chamber or elsewhere by the Senator when it is my happy fortune to be able to listen. It was a speech of great ability, a speech such as only few men could make. But, Mr. President, when it is all reduced to practical propositions, it amounted, as I understood it, simply to this, that the Government of the United States has no constitutional power to acquire territory except only for constitutional purposes, of which purposes the Senator from Massachusetts seems to constitute himself the sole and exclusive judge.

In orther words, Mr. President, it must be a constitutional purpose according to the definition given by the Senator from Massachusetts of the purposes of the Constitution. He specifies that it is constitutional under the Constitution for the Government. in the exercise of its constitutional power with respect to the acquisition of territory, to secure a coaling station, a naval station, a place for a post-office or a custom-house, and remembering our experience last summer at the last session, he thought it was constitutional to acquire Hawaii; that that was a constitutional purpose because necessary to the national defense. I did not understand the Senator to say, but I understood him to admit, that when this Government acquires territory for one of these constitutional purposes it is not necessary to secure the consent of the people who may occupy that territory and who must by the acquisition pass under our jurisdiction and be governed by us.

Mr. HOAR. I did not make any such admission. Mr. FORAKER. The Senator says he did not make any such admission. I say I did not understand him to say anything on the subject. I rather thought he had in mind the fact that when we were debating the Hawaiian resolution there was a protest filed here in this Chamber by the Senator from Massachusetts, signed by more than 14,000 of the Kanakas, or natives of that island, protesting against the acquisition by the United States Government of the Hawaiian Islands and the extension of our jurisdiction over them.

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Mr. HOAR. The Senator, I am sure, will pardon me?

Mr. FORAKER. Certainly.

Mr. HOAR. The people of Hawaii voted upon a constitution, and in that constitution they expressly authorized their legislative body to make provision for their annexation to the United States. Thereupon, in pursuance of the constitution, which had been in force for six or seven years, they proceeded to do it. Now, it is true that I presented a paper purporting to be signed (I do not know whether the signatures were or were not in every case verified) by a pretty large number of the Kanakas, but I believed then and stated then, and I believe now, that a majority of the citizens of Hawaii desired annexation to the United States; and that, in addition to that, everything in that island which could be called the germ of a national life was on that side; and so did the Senator from Ohio believe, I am sure.

Mr. FORAKER. Surely; but I had no constitutional trouble about it. Now, all the Senator has said is quite true; but the fact remains, and that is what I am calling attention to, that he did not state in his speech—if he did it escaped me, and I allude to it now that he may correct me if I should be corrected—that when we acquire territory for a constitutional purpose the consent has anything to do with it. Suppose we acquire a coaling station that is situated upon an island in the sea. It is a constitu-

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tional purpose for which we have to acquire it. Suppose the inhabitants be of such a character that it is essential to the safety of our interests there that we acquire the whole island, though there be a thousand, or ten thousand, or one hundred thousand. as in the case of Hawaii, or a million people or more, as may be the case as to Luzon. Suppose we acquire it for a constitutional purpose, a purpose that is absolutely essential to the national welfare, for the purpose of national defense, must we stop in such a case and secure consent of the population? The Senator's statement was in regard to Hawaii. Would we stop and jeopardize the national interests, hesitating to acquire a place necessary to the national defense, because somebody there had not been consulted? And suppose we consult the population and they object, or some of them object. What then?

Mr. HOAR. If the Senator will pardon me, it was not appropriate or apt to what I had to say the other day to express an opinion on that subject, but I certainly affirm that if it were desirable, convenient, or we thought it essential for our national defense to annex outlying territory, and the people there possessing that territory objected, I should consider the claiming it, annexing it, subjecting it, under those circumstances as a great national crime to be repudiated, denounced; and I should consider that the United States had better go down beneath the waters of the Pacific in honor rather than disgrace itself by doing that thing.

Mr. FORAKER. Now, Mr. President, we understand the Senator from Massachusetts——

Mr. HOAR. Yes; you understand me now.

Mr. FORAKER. We understand from the Senator from Massachusetts what we did not learn from his speech the day before yesterday. We have learned that, according to his interpretation of the

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Constitution, possessions may be acquired for constitutional purposes and they may be acquired for purposes that are not constitutional in the sense in which he has defined those purposes, but that in all cases where territory is acquired, whether for constitutional purposes or not, the consent of the inhabitants of that territory must be secured before we can acquire it.

Mr. HOAR. That is not what I said. I said where there is a people there governing it.

Mr. FORAKER. I am assuming that there is a people. Nobody else would object, I suppose, but a people.

Mr. HOAR. That is a pretty essential part of the statement.

Mr. FORAKER. Yes; I was assuming that. Now, Mr. President, in other words—

Mr. HOAR. I do not mean to say if there is a continent of 10,000,000 square miles, over which there are five or six thousand savages roaming, incapable of national life, incapable of civilized life, incapable of government, not a people, not the germ of a people, never to become a people, that civilization and Christian government are estopped at the threshold. That is a different thing.

Mr. FORAKER. Yes.

Mr. HOAR. I do not suppose if Alexander Selkirk, instead of landing on his little island, as Defoe describes in his tale of Robinson Crusoe, had landed on the continental island of Australasia, and there had been nobody else there, that he or his descendants could have kept off forever and forever the footsteps of man. That is not the point. You have got to take that thing practically. But where there is, as there is in the Philippine Islands, a people possessing a country—

Mr. FORAKER. I am not talking about the Philippine Islands yet. I am talking about the abstract question, and I want to go on with it.

Mr. HOAR. So am I. When there is, as there clearly is in the case I am speaking of in the Philippines Islands now, a people, or to take the case of Canada, which has been cited here, remonstrating, I say it would be a great national crime, and our fathers said it would be a great national crime, for us to undertake to subdue and occupy that territory for any purpose of our own; and if we can not live as a nation without committing that crime we ought to die as a nation without committing it. That is my doctrine.

Mr. FORAKER. Mr. President, as I now understand the Senator from Massachusetts, he does not think the march of civilization ought to be estopped for the want of consent. I suppose the march of the French from the mouth of the Congo across the Dark Continent of Africa to meet the British in their march up the Nile to Fashoda would meet with the approbation of the Senator, without regard to consent, because in those regions are to be found not the kind of civilization which he has depicted to us as being found in the Philippine Islands, but the character of civilization that has been described as existing on those islands by the Senator from Louisiana [Mr. CAFFERRY].

But, as I was saying, Mr. President, I did not intend a discussion at this stage about the Philippines. I wanted an understanding of the abstract proposition of the Senator from Massachusetts; I wanted to know, and I have now found out what I did not learn from his speech when he made it the other day—that he says consent is necessary to the constitutional acquirement and government of territory by the United States when acquired even for those con-

stitutional purposes which he has designated as within the purview of the Constitution.

In other words, according to the Senator from Massachusetts, we can not acquire a coaling station in the Pacific unless the people who happen to be living upon and occupying the territory so to be acquired give their consent thereto. I do not assent to that doctrine. But before I proceed allow me to revert to what I wanted to say a moment ago. It is true. Mr. President, that the people who established the Government over the Hawaiian Islands had framed a constitution in which it was provided that they might negotiate a treaty of annexation; yet it was also true, and conceded in the debate that ensued upon the question, that there was a population of perhaps 108,000 in that island, composed of Kanakas, Japanese, Chinese, Portuguese, and almost all other nationalities, and that only about 3,000 of those 108,000 had participated in the creation of the Government or its conduct, or were having anything to do with the annexation of that territory to this country; and it was insisted—I remember the Senator from Georgia [Mr. BACON] rather strenuously insisted at one stage of the debate—that there should be a plebiscite ordered before we should annex Hawaii by act of legislation or otherwise; and I understood the Senator from Massachusetts, when he presented a protest, as it was called, signed by more than 14,000 of the inhabitants of that island against annexation, to not insist upon it for the simple reason that, while ordinarily consent should be obtained, yet we were acquiring that territory for a great national purpose, the national defense, and that a nation has a right to preserve its own life, and it is not required when any acquisition of a piece of territory is essential to its national preservation and life to go to the island and consult the inhabitants of it, or to take a vote, or in any other manner whatsoever consult the wishes of that people and be governed thereby.

Mr. HOAR. I said we must take the action of the Government. That is what I said at the time.

Mr. FORAKER. I think I understand.

Mr. HOAR. I do not think you do understand. I said at the time that it was impossible in dealing with a people to deal with anything but the established Government. That Government had been established, and during the four years of President Cleveland's hostility had maintained itself by the consent of that people in peace and in freedom. In such a case there is no need of taking a plebiscite of the people.

Mr. FORAKER. However that may be, I have pursued it as far as I care to, and I want to proceed. I take issue with the Senator from Massachusetts upon the proposition that when you acquire territory for a constitutional purpose you must secure the consent of the people in acquiring that territory; and I want to follow that with this proposition, that it is not only an acquisition of territory for a governmental purpose when you acquire it for a post-office. a custom-house, a naval station, or a coaling station, but it is equally the acquisition of territory for a governmental purpose when in war you take it by conquest to despoil, weaken, and destroy your enemy; and it is equally the acquisition of territory for a governmental purpose when, at the conclusion of war with a bankrupt nation, they have nothing with which to indemnify you except only territory, and you take it on that account. These are all constitutional purposes, and no consent of the people is necessary in any of them.

But, Mr. President, what are we to think? Is it possible that this great and powerful nation of ours, powerful in peace and powerful in war, and to be

powerful, we trust, in the commercial world, has no power to subserve its own necessary and constitutional purposes except only by the consent of the people who may for the time being be affected? I utterly repudiate any such doctrine.

Why, Mr. President, this Government, as I have undertaken to point out, has unqualified and unrestricted power to acquire territory by treaty. When you acquire territory by treaty, is not that acquiring it for a constitutional purpose? If the Chief Executive of the nation sign and the Senate of the United States ratify a treaty agreeing that territory shall be acquired in a given case, are we to assume that it was not a constitutional purpose for which it was acquired and that they have violated the Constitution? Is the purpose in such case open to question?

We were talking about Canada this morning. Suppose, Mr. President, the cordial relations, with which we are all so much gratified, that are existing now between Canada and the mother country and this country should continue, and that in the course of events there should be developments of such a character as to show that it was highly advantageous to both countries to annex Canada to the United States, we would certainly have authority under the Constitution to negotiate and ratify and put into force such a treaty, and if we put it in force -I mean if we thus acquired Canada, and acquired it to promote the interests of both countries, and particularly those of our own country-would that not be a constitutional purpose? Take the preamble of the Constitution and read it. Would not the promotion in that way of our national interests be within the meaning of that Constitution? Most clearly it would. In such a case there would doubtless be full consent.

But suppose that, on the contrary, instead of these relations ripening into that kind of a result, there

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should be an estrangement that would end in hostility and war, and it should be necessary for this country to march its armies across the border and take Canada, or part of Canada, by conquest, to straighten out the line, for instance, between the northern boundary line of Maine and the northern boundary of the lakes, to take it by way of indemnity or by conquest, just as you might take it in case of war, I ask would not that be a constitutional acquisition of territory?

If that be a constitutional purpose, and it be so constitutionally acquired, can we not govern it without stopping to count how many people there are and to know whether or not they are hostile to us, as probably that people would be in view of our taking their territory in that manner, or without stopping to inquire whether or not the people against whom we had been waging war, whose country we had found it necessary to take away from them and add to our own, if consulted, would give, formally or otherwise, their assent to the proposition? It seems to me, with all due deference to the distinguished Senators who advance the proposition, that it is absolutely untenable.

## Porto Rican Legislation.

By the Treaty of Paris the Island of Porto Rico became an insular possession of the government of the United States and with its possession came the practical questions of its government. The Democratic party in Congress, true to its traditions, proclaimed the doctrine of Calhoun, namely, the transmigration of the Constitution. They became resurrectionists of an exploded dogma of ante-bellum days. The flag being planted in Porto Rico, they announced, "The Constitution follows the flag." That the cession of Porto Rico to the United States extended the Constitution and the laws of the United States locally applicable to the island, without action of Congress, as it was originally sought to extend slavery into the territories. Therefore, we could not have a variation of laws on tariff and internal revenue taxation in the United States and in Porto Rico. Such laws must be uniform here and in the island.

The situation in Porto Rico was deplorable; the industrial conditions of the island were absolutely paralyzed and prostrated; no money and no credit with which to command money, with a mortgaged debt approximating \$30,000,000, direct taxation on property in Porto Rico was an impossible thing. Congress must come to the relief of the people, exercise its power under the treaty and the Constitution, provide a civil government and temporarily provide revenue for Porto Rico. This great humanitarian work called forth the efforts of the Statesmen. It was fitting that Senator Foraker, who had been so conspicuous in beginning and ending the war should lead the way in establishing civil government and fixing the civil and political status of the inhabitants of our new possessions. As Chairman of the Committee on Pacific Islands and Porto Rico this important work naturally fell to him. After the most careful study of the whole subject he framed and introduced a bill for the government of Porto Rico and to provide revenue for its support.

His own record tells the story of his services in this respect better than it can be told by the writer and in view of the farreaching consequences of this legislation which has now been upheld by the Supreme Court of the United States no apology is necessary for quoting from it at length.

On the 5th day of February, 1900, he made the following report on his bill. A perusal of it will show the great research, labor and learning necessary to its preparation, as well as the sound conclusions reached. The full credit to which Senator Foraker is entitled for this report is not realized until it is remembered that it preceded all the arguments, debates and decisions, that have since illuminated this general subject. He was literally blazing the way:

# Temporary Civil Government for Porto Rico.

FEBRUARY 5, 1900.—Ordered to be printed.

Mr. FORAKER, from the Committee on Pacific Islands and Porto Rico, submitted the following

#### REPORT.

The Committee on Pacific Islands and Porto Rico, having had Senate bill 2264 under consideration, report as follows:

The purpose of the bill is to provide a temporary civil government for Porto Rico, to continue until the laws and ordinances now in force in that island can be revised and codified and a more permanent form of government be framed by a commission to be appointed by the President, by and with the advice and consent of the Senate, as provided in the thirty-ninth section of the bill.

The necessity for a commission of this character is manifest when it is considered that the laws and judicial systems and codes of procedure, as well as the political conditions generally, now existing in Porto Rico, are so widely different from ours as to make it impossible to do such work intelligently and comprehensively without that wider and more accurate knowledge that can be obtained only by visiting the island and studying the whole situation as it there exists.

Because the legislation now under consideration is intended to stand only temporarily, the committee have sought to limit it to only such changes in existing laws and conditions as appear necessary to quickly accomplish purposes that are thought to be essential to the peace and prosperity of the island. 1..9

Generally stated, these propositions are:

- 1. To substitute a civil for a military government.
- 2. To accord to the native Porto Ricans as much participation therein as it may be for the best interests of all concerned to give them.
- 3. To avoid as far as possible radical changes in the laws, courts, and codes of procedure and yet make such modifications and alterations as are necessary to dispense with the most objectionable features of Spanish government and judicial administration.
- 4. To provide a legislative authority that can deal with all domestic subjects of legislation.
- 5. To extend the navigation laws of the United States to the island, and enact such tariff, internal revenue, and other provisions as are necessary to afford a revenue for the support of the government, and to meet the expenses of such public instruction and public improvements as should be undertaken, and in this behalf authorize, to a limited extent, the raising of funds by issuing municipal and insular bonds in anticipation of revenues.
- 6. To retire Porto Rican coins now in circulation and substitute coins of the United States therefor.
- 7. To authorize and regulate the granting of public and quasipublic franchises.

With these general purposes in view the committee granted hearings to a number of persons who were familiar with the population of the island and the existing financial, industrial, political, judicial, and general governmental conditions. All this testimony has been printed and is submitted herewith. It will be found both interesting and instructive.

From this testimony so taken and from general knowledge the committee found that there are two or three small islands adjacent to Porto Rico, which are practically a part of it and should be governed with it. The most important of these is Vieques, situated about 13 miles distant from the eastern shore of Porto Rico. It is about 21 miles in length and has an average width of about 6 miles. It is inhabited and under cultivation. The other islands referred to are the same in general character, but less in both size and importance.

With the exception of these small islands, Porto Rico is a compact territory about 90 miles in length, with an average of about 35 miles in width. It has an area of about 3,500 square miles. The interior is mountainous, but most of it is under cultivation and more or less productive. It has a population of about 1,000,000 people. Of this number only about 15 to 20 per cent can read and write in any language. The great majority of the others are illiterate and very poor. All, however, seem glad to be annexed to the United States and to desire the substitution of civil for military government, and that Porto Ricans be allowed to share in its conduct and administration.

The chief products of the island are coffee, sugar, and tobacco, though cattle raising is carried on quite successfully, and tropical fruits are produced in large quantities.

The export trade, before the recent war, was chiefly with Spain and Cuba, and amounted in the aggregate, to about \$18,000,000. About two-thirds of this amount was coffee; sugar and tobacco made up the major part of the other third.

The hurricane of August 8, 1899, almost entirely destroyed the coffee plantations throughout the whole of the island.

The treaty of peace closed against Porto Rico, except on payment of high duties, the ports of both Spain and Cuba. In consequence, the present industrial condition of the island is one of general prostration. The lands are heavily mortgaged, and there is no credit in the present unstable and indefinite status of the government with which to borrow money either to pay debts or to conduct business.

The bad features of this situation are greatly augmented by the continued circulation of Porto Rican coins. "Money changing" has, in consequence, become a necessary, but very troublesome, burden on all kinds of commercial transactions.

The inhabitants have had but little experience in government. During recent years they were allowed by a restricted suffrage, based on educational and property qualifications, to choose certain municipal officials and also four senators and twelve deputies to represent them in the Spanish Cortes, and at the beginning of the year 1898, just before the commencement of the Spanish-American war, an autonomist form of government was put into operation, under which the island was allowed a local legislature, empowered

to legislate on all domestic subjects, including taxation, under which universal manhood suffrage was allowed to all over the age of 25 years for the election of all except the captain-general and judiciary, which continued appointive. (Carroll's report, p. 42.)

Only one election was held under this autonomic government, but it seems to have been satisfactorily conducted and to have had satisfactory results. The elections held prior thereto, where the suffrage was restricted, seem also to have been attended with satisfactory results.

The laws and municipal ordinances and the various codes of procedure in force when the American military occupation commenced have been so far modified, altered, or repealed by military orders as to make them nearly enough conform to American ideas as to render it unnecessary for Congress to legislate with respect to them at this time.

The local legislative authority can make such changes as may be found necessary until the work of revision to be done by the commission can be substituted for this act.

The same may be said as to the judicial system. It has been greatly simplified and made more effective and less expensive. It now fairly meets the requirements of existing conditions.

As to education, there is not, and never has been, any general system, and now there is hardly a schoolhouse in the whole country where public instruction can be given.

With the exception of the military road from San Juan to Ponce, there are practically no highways of travel, the so-called roads amounting to little more than bridle paths and being not at all sufficient for anything like a satisfactory vehicular travel.

With all these facts and considerations in mind, the bill has been framed with a view to establishing a defined local government with sufficient revenues to defray all ordinary expenses and to inaugurate a system of education, undertaking needed public improvements, providing safeguards for necessary franchises, the substitution of American for Porto Rican coins, and to bring about a restoration of prosperity by opening markets on conditions that will stimulate production and bring quick and satisfactory results.

In this behalf it provides for a continuance, for the time being, of the existing laws, as modified by military orders, and also continues the judicial system now in operation; and, to administer the

government in accordance with these ideas, it provides for the appointment of a governor and an executive council and the election of a house of delegates, which, together with the executive council acting as an upper house, shall constitute a legislative assembly that shall have complete power, subject to the veto of the governor and the supervision of Congress, to legislate upon all rightful subjects of legislation.

It further provides safeguards for the granting of franchises. authorizes the anticipation of taxes and revenues by issuing bonds, provides preferential duties on dutiable articles imported into Porto Rico, from the United States and into the United States from Porto Rico, and extends to Porto Rico the internal revenue and all other laws of the United States locally applicable, but does not so extend the Constitution of the United States.

The questions that gave the committee most concern were, first, as to whether or not the Constitution should be extended to Porto Rico; and, in the second place, what provision should be made with respect to tariff duties and internal revenue taxes.

With respect to the first of these questions, an examination of the various acts of Congress establishing Territorial governments, commencing with the act of April 7, 1798, establishing a Territorial government for Mississippi, shows that Congress did not extend the Constitution of the United States to the Territories in any case prior to the act of September 9, 1850, by which a Territorial government was established for New Mexico.

In the act of April 7, 1798, establishing a Territorial government for Mississippi, the provision was simply that the people of Mississippi should be entitled to enjoy all and singular the rights, privileges, and advantages granted to the people of the territory of the United States northwest of the river Ohio in and by the ordinance of 1787 in as full and ample manner as the same were possessed or enjoyed by the people of the said last-mentioned territory, excluding the last article of the ordinance, which prohibited slavery.

By the act of May 7, 1800, establishing a government for the Territory of Indiana, the same provision was repeated in substantially the same language.

By the act of October 31, 1803, it was simply provided that for the government of Louisiana, until Congress should act, all military, civil, and judicial powers should be vested in such person and persons and be exercised in such manner as the President of the United States should direct "for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion."

By the acts of March 26, 1804, March 2, 1805, and March 3, 1805, establishing and relating to government in the Territory of Orleans and district of Louisiana, certain laws of the United States, which were specifically mentioned, were put into operation in the Territory and district.

There was no extension of the Constitution of the United States or of the laws of the United States locally applicable in any of these cases, and, in the case of Louisiana, there was no participation in the local government allowed to the people of the Territory. All the officials, including the legislative authority, as well as the governor and the judges, were appointed by the President.

In the act of January 11, 1805, establishing a government for the Territory of Michigan, it was provided that the government should be similar to that provided by the ordinance of 1787, but there was no extension to the Territory of the Constitution of the United States or the laws of the United States locally applicable.

In the act of February 3, 1809, establishing a Territorial government for Illinois, the same provision was repeated in substantially the same language, except that as to the organization of a general assembly for said Territory, so much of the ordinance as related thereto should not go into effect until satisfactory evidence should be given to the governor that such was the wish of a majority of the freeholders of the Territory.

By the act of June 4, 1812, establishing a Territorial government for Missouri, the legislative authority was appointed and the Constitution of the United States and the laws of the United States locally applicable were not extended or made to apply, but in lieu thereof most of the provisions of the Constitution relating to personal rights, privileges, and immunities were specifically enacted as a part of the statute creating Territorial government.

By the act of March 3, 1817, establishing a Territorial government for Alabama, the Constitution and laws of the United States were not made applicable, but only such laws of the Territory of Mississippi, of which Alabama had been a part, should be continued in force as were locally applicable.

By the act of March 2, 1819, establishing a Territorial government for Arkansas, the legislative authority was vested in the governor and certain judges—who were appointed—and the act providing for the government of the Territory of Missouri, and certain laws of that Territory were made applicable, but the Constitution and laws of the United States locally applicable were not extended or applied.

By the act approved March 3, 1819, authorizing the President of the United States to take possession of East and West Florida, and establishing a Territorial government therein, it was provided, as in the act authorizing the President to take possession of Louisiana, that all military, civil, and judicial powers should be vested in such person and persons, and should be exercised in such manner as the President of the United States should direct, etc.

By the act of March 30, 1822, establishing a government for the Territory of Florida, the legislative power was vested in the governor and a council appointed by the President, and certain privileges, immunities, and guarantees in the Constitution were incorporated into the statute; but the Constitution of the United States and the laws thereof, locally applicable, were not extended to the Territory.

By the act of April 30, 1836, establishing a government for the Territory of Wisconsin, the Constitution of the United States was not extended to the Territory, but it was provided in the following language, used for the first time in this legislation for Territories, that—

The laws of the United States are hereby extended over and shall be in force in said Territory, so far as the same or any provisions thereof may be applicable.

By the act of June 12, 1838, establishing a government for the Territory of Iowa, the Constitution of the United States was not extended to the Territory, but it was provided in Section 12 as follows:

That the inhabitants of the said Territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants, and the existing

laws of the Territory of Wisconsin shall be extended over said Territory so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of said Territory of Iowa; and, further, the laws of the United States are hereby extended over and shall be in force in said Territory, so far as the same or any provisions thereof may be applicable.

By the act of August 14, 1848, establishing a government for the Territory of Oregon, it was provided in Section 14 that the inhabitants of said Territory should be entitled to enjoy all and singular the rights, privileges, and advantages granted and secured to the people of the United States northwest of the river Ohio by the ordinance of 1787—

and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same or any provision thereof may be applicable.

The act of March 3, 1849, establishing a government for the Territory of Minnesota, provided that the inhabitants of the Territory should be entitled to all the rights, privileges, and immunities granted and secured to the Territory of Wisconsin and its inhabitants, and that—

The laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same or any provision thereof may be applicable.

It will be observed that, as already stated, down to this time the Constitution of the United States was never by express enactment of Congress extended, in any instance, to any Territory for which the Congress established a Territorial government, and that in only a few cases had the laws of the United States locally applicable been extended.

But in the act of September 9, 1850, establishing a government for the Territory of New Mexico it was provided, for the first time in all this legislation—

That the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of New Mexico as originally within the United States.

This provision was repeated in the act of September 9, 1850, for the establishing of a government for the Territory of Utah.

In one form or another it has been substantially repeated in every act establishing Territorial governments, including the act of February 21, 1871, establishing a government for the District of Columbia, where the language employed is as follows:

And the Constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said District of Columbia as elsewhere within the United States.

This provision has never been repealed.

In the act of May 17, 1884, establishing a government for the district of Alaska, it was provided as follows:

That the general laws of the State of Oregon now in force are hereby declared to be the law in said district so far as the same may be applicable and not in conflict with the provisions of this act or the laws of the United States.

Attention is called in detail to this legislation to show that there is abundant precedent for not extending the provisions of the Constitution to territory of the United States for which Congress may be called upon to legislate. That it is within the constitutional power of Congress to either extend or withhold the Constitution in all such cases, as it may deem advisable, will appear from the authorities hereinafter cited in support of the proposition that

Congress has constitutional power to legislate according to the provisions of this bill with respect to import duties, to which provisions attention is now called.

The bill as introduced provided for free trade between the United States and Porto Rico. This proposition was objected to on various grounds. It was urged that—

- I. It was in violation of the policy of protection.
- 2. It was inimical to the interests of the United States, with which Porto Rican products would come in competition.
- 3. It would be a precedent that would have to be followed in other cases that might hereafter arise where the competition resulting might be still more injurious to American interests.

These were, at least, the principal objections urged before the committee. The committee carefully considered all of them, with the result that they do not regard the objections as well taken.

They do not think, for instance, that there is in the proposition any departure from the policy of protection, because that policy has always been maintained only as between the United States and the rest of the world, while within our own jurisdiction, among all our States and Territories, there has always been free trade. Now that Porto Rico has become a possession of the United States, it would be an application of the same policy to establish free trade between the two countries. It would be but treating this territory as no longer foreign, but American.

As to the second of these objections, the committee are of the opinion that there would not result any material injury, if there would be any injury at all, to any industry of the United States from the introduction into this country, free of duty, of all the products of Porto Rico, and that if there should be, there would be large conpensating advantages secured in the corresponding extension of our markets and otherwise.

So far as coffee is concerned no such objection is tenable, for that is already admitted free of duty.

The only other products worthy of consideration in this connection are tobacco and sugar.

The total product of tobacco is less than 2,250,000 pounds per annum, and, therefore, not enough in quantity to affect our pro-

duction, which amounts to more than 400,000,000 pounds annually, while in quality it is such as to be used almost exclusively for filler purposes, while most of our tobaccos, especially those of Connecticut and the Northwestern States are used almost altogether for wrappers and binders.

The sugar product amounts to about 60,000 tons annually, and under the impetus given by free trade with the United States would be increased in time to probably twice that amount. This sugar will come into direct competition with the cane and beet sugars of the United States, but when it is remembered that we consume about 2,000,000 tons annually and produce less than one-fifth of that amount, it seems that one of our possessions, especially when its contribution toward making up this great deficiency is so small, might be allowed the same privileges with respect to our own market, of which it has become a part, that are accorded to the other sections of the country.

So far as the objection is concerned that what is done with respect to Porto Rico will be a precedent that must be followed in dealing with the Philippines and other islands we may acquire, the committee think it enough to say that such a result does not necessarily follow. In the opinion of the committee each case stands on its own merits, and Congress is not bound in one by what it may see fit to do in another. Its power is plenary, and it may do as it likes.

Nevertheless, the committee, although disregarding these objections, have thought it best, in view of the urgent necessity for a revenue for Porto Rico, to impose on all dutiable articles imported into Porto Rico from the United States 25 per cent of the tariff duties provided by the law of July 24, 1897, and also to impose a similar duty on all articles dutiable under said act that may be imported from there into the United States, which, together with all internal-revenue taxes that may be levied, shall be collected for the use and benefit of the treasury of Porto Rico for the support of the local government.

These revenues are given to Porto Rico, not only because the necessities of the island are immediate and very great, but for the further reason that it seems only just that the island should have the full benefit of all such duties and taxes, inasmuch as they arise on account of the island alone, and for the further reason that

there is no satisfactory system of taxation or raising of revenues now in force in the island, and there will necessarily be much delay in inaugurating one.

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It is thought that these provisions, together with such taxes as may be available from other sources, will promptly give substantial relief and render it unnecessary to extend direct aid from the National Treasury, as would otherwise be necessary.

It is estimated that the Government of Porto Rico should have a revenue for insular purposes, in addition to all the expenses of municipal governments, amounting in the aggregate to not less than \$3,000,000 annually, to be expended substantially as follows:

For the expenses of the insular government, including the salaries of all officials, the expenses of maintaining the courts, jails, almshouses, etc., about \$1,000,000.

For schoolhouses and educational purposes, \$1,000,000.

For the construction of roads, building bridges, etc., and other necessary public improvements, \$1,000,000.

It is estimated that there will be derived from tariff duties about \$2,000,000, and from internal-revenue taxes and other sources about \$1,000,000.

The committee recognizes that in not extending the Constitution and making it apply to Porto Rico, and especially by the provisions they report in this bill with respect to tariff duties, they raise important questions as to the constitutional power of Congress to enact such legislation. Notwithstanding all that has been said to the contrary, a majority of the committee are of the opinion that Congress has such power. It is not thought necessary to do more in this report than simply indicate the grounds upon which they hold that opinion.

Speaking for the majority of the committee, it is no longer open to question that the United States has complete sovereign power to acquire territory; that it is the political equal in that respect of any other Government.

It may acquire territory by discovery, by conquest, or by treaty. If it acquire territory in any of these ways, it follows as a necessary consequence that it has a right to govern such territory and the inhabitants thereof; and also it follows that the government so to be established by it must be such as meets the requirements of the case. If we should acquire territory populated by an intelli-

gent, capable, and law-abiding people, to whom the right of selfgovernment could be safely conceded, we might at once, with propriety and certainly within the scope of our constitutional power, incorporate that territory and people into the Union as an integral part of our territory, and, by making them a State, as a constituent part of the United States, and extend to them at once the Constitution and laws of the United States; but if the territory should be inhabited by a people of wholly different character, illiterate, and unacquainted with our institutions, and incapable of exercising the rights and privileges guaranteed by the Constitution to the States of the Union, it would be competent for Congress to withhold from such people the operation of the Constitution and the laws of the United States, and, continuing to hold the territory as a mere possession of the United States, so govern the people thereof as their situation and the necessities of their case might seem to require.

In other words, the Constitution and laws of the United States do not, ex proprio vigore, extend to territory acquired by the United States, but only by Congressional action. And so long as Congress may see fit to withhold the operation of the Constitution from a Territory it is not bound in legislating for that Territory except by its positive prohibitions. It is not bound, for instance, to require trial by jury in criminal cases (Twitchell v. Commonwealth, 7 Wallace, 326), nor in civil suits at common law where the value in controversy shall exceed \$20 (Walker v, Sawnnet, 92 U. S., 90), nor to establish the common law in substitution for the civil law where that is already in force, nor is it bound by its requirements as to the levying of taxes, duties, customs, and imposts. With respect to all these matters Congress is empowered to act as in its discretion may seem best. We understand all these propositions to be settled by authority as well as upon reason.

# I. THE SOVEREIGNTY OF THE UNITED STATES IS FULL AND ${\tt COMPLETE}, \\$

The Federal Government is the exclusive representative and embodiment of the entire sovereignty of the nation in its united character. (In re Neagle, 135 U. S., 84; dissenting opinion of Justice Lamar.)

#### THE POWER TO ACQUIRE, HOLD, AND GOVERN TERRITORY IS UNQUALIFIED.

The Constitution confers on the Government of the Union the power of making war and of making treaties; and it seems, consequently, to possess the power of acquiring territory either by conquest or treaty. Story on Constitution, sec. 1287.)

The power to acquire territory \* \* \* is derived from the treaty-making power and the power to declare and carry on war. The incidents of these powers are those of national sovereignty and belong to all independent governments. (Mormon Church case, 136 U. S., 42.)

As the General Government possesses the right to acquire territory, either by conquest or treaty, it would seem to follow as an inevitable consequence that it possesses the power to govern it. (Story on Constitution, sec. 1324.

Chief Justice Marshall said, in Serè v. Pitot (6 Cranch, 336):

The power of governing and of legislating for a Territory is the inevitable consequence of the right to acquire and hold territory \* \* \* hence we find Congress possessing and exercising the absolute and unqualified power of governing and legislating for the Territory of Orleans.

Mr. Justice Bradley said, in Mormon Church case (136 U. S., 42):

It would be absurd to hold that the United States has power to acquire territory and no power to govern it when acquired.

Mr. Justice Matthews said, in Murphy v. Ramsey (114 U. S., 44):

That question is, we think, no longer open to discussion. It has passed beyond the stage of controversy into final judgment. The people of the United States, as sovereign owners of the National Territories, have supreme power over them and their inhabitants.

Mr. Justice Gray said, in Shively v. Bowlby (152 U. S., 48):

The United States having rightfully acquired the Territories, and being the only Government which can impose laws upon them, have entire dominion and sovereignty, national and municipal, Federal and State, over all the Territories, so long as they remain in a Territorial condition.

3. THE ORGANIZATION AND GOVERNMENT OF TERRITORIES IS NOT A CONSTITUTIONAL RIGHT, BUT SOLELY A QUESTION OF EXPEDIENCY WITHIN THE DISCRETION OF CONGRESS.

In Benner v. Porter (9 How., p 242) the Supreme Court said:

They (Territories) are not organized under the Constitution, nor subject to its complex distribution of the powers of government as the organic law, but are the creations exclusively of the legislative department, and subject to its supervision and control.

And again in Bank v. Yankton (101 U. S., 132) the court said:

All territory within the jurisdiction of the United States not included in any State must necessarily be governed by or under the authority of Congress. The Territories are but political subdivisions of the outlying dominion of the United States. Their relation to the General Government is much the same as that which counties bear to the respective States, and Congress may legislate for them as a State does for its municipal organizations.

All territorial powers are created by Congress, and all territorial acts are subject to Congressional supervision. (Talbott v. County, 139 U. S., 446.)

It will be observed that the power to acquire territory is not an express power of the Constitution, but is simply an inherent power of sovereignty necessarily implied from and incident to the power to make discoveries (about which nothing is said in the Constitution), and the power to make treaties, and make war, with respect to which transactions the Constitution does not confer any power, but simply designates the agencies by which the inherent powers shall be exercised.

It therefore follows:

If there were no provision on the subject Congress, representing the political department of the Government, would have absolute power over all territory outside of the States; but under the Constitution, and on authority, this power is unquestioned and plenary.

This power (of disposition and government) is vested in the Congress without limitation, and has been considered the foundation upon which the Territorial governments rest. (United States v. Gratiot, 14 Pet., 537.)

All territory within the jurisdiction of the United States not included in any State must necessarily be governed by or under the authority of Congress.

\* \* It has full and complete legislative authority over the people of the Territories and all the departments of the Territorial governments. (101 U. S., 132.)

All the functions of government being within legislative discretion, Congress may exercise them directly or indirectly through the organized local rule. (86 Fed. R., 459; 18 Wal., 319; 114 U. S., 44.)

It may legislate in accordance with the special needs of each locality, and vary its regulations to meet the conditions and circumstances of the people. (86 Fed. R., 459.)

In American Insurance Company v. Canter (I Peters, 542). Chief Justice Marshall, speaking of the annexed Territory of Florida, said:

Its only rights were those stipulated in the treaty or granted by the new government.

From these authorities, and many more that might be cited, it is clear that Territories are not created, organized, or supervised under the Constitution as a constitutional right, but that they are on the contrary created, organized, and supervised by Congress by virtue of both the inherent and constitutional power with which Congress, as the political department of the Government, is vested, to rule and regulate the Territories of the United States; and the rights, powers, privileges, and immunities granted to the inhabitants of the Territories, whatever they may be, are all given by Congress and do not flow from the Constitution beyond what Congress may de-In other words, the provisions of the Constitution do not operate beyond the States, unless Congress shall so enact. is no guaranty in the Constitution that a Territory shall even have a republican form of government, or that the civil and political status of the inhabitants of a Territory shall be of any particular character.

But while this power of Congress to legislate for newly acquired territory does not flow from, and is not controlled by, the Constitution as an organic law of the Territory, except when Congress so enacts, yet as to all prohibitions of the Constitution laid upon Congress while legislating they operate for the benefit of all for whom Congress may legislate, no matter where they may be situated, and without regard to whether or not the provisions of the Constitution have been extended to them; but this is so because the Congress, in all that it does, is subject to and governed by those restraints and prohibitions. As, for instance, Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; no title of nobility shall be granted; no bill of attainder or ex post facto law shall be passed; neither shall the validity of contracts be impaired, nor shall property be taken without due process of law; nor shall the freedom of speech or of the press be abridged; nor shall slavery exist in any place subject to the jurisdiction of the United States.

These limitations are placed upon the exercise of the legislative power without regard to the place or the people for whom the legislation in a given case may be intended; and for this reason they inure to the benefit of all for whom Congress may undertake to legislate, without regard to whether the provisions of the Constitution, as such, have been expressly extended to them. It is not, therefore, a denial of any of these personal privileges, immunities, and guaranties to withhold the extension and application of the Constitution of the United States. Their enjoyment does not depend on such action. Congress can not deny them.

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The case of Loughborough v. Blake (5 Wheaton, 317) is not, when rightly interpreted, in conflict with these propositions, but in support of them. All the questions of that case were decided in harmony with what is here contended for. The same is true as to the jury cases and the cases involving rights of citizenship that have been cited by those contending for an opposite opinion. All these cases had reference to the territory which had been made an integral part of the United States, and over which the Constitution and laws of the United States had been expressly extended.

But, however the question may stand on authority and general principles, there does not seem to be any room to doubt the power of Congress to legislate according to its own discretion with respect to Porto Rico.

In the treaty of Paris it is expressly provided—

That the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

No such clause as this has ever before been found in any treaty ceding territory to the United States. Its effect is, therefore, to be considered now for the first time. There is no ambiguity about it; neither can there be any controversy as to its effect. A treaty is a part of the supreme law of the land, made so by the Constitution itself:

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding. (Second clause, Article VI, Constitution.)

This provision does not say that all treaties made in pursuance of the Constitution, or consistently with the Constitution, but all treaties made under the authority of the United States, shall be, together with the Constitution and laws enacted in pursuance of it, the supreme law of the land. As to all matters, therefore, with which it properly deals, a treaty is an instrument of equal dignity with the Constitution itself. This provision was manifestly within the proper scope of the treaty. It can not be claimed that it was ultra vires the treaty-making power or for any other reason invalid. It expressly confers on Congress a right to make the inhabitants of Porto Rico citizens of the United States or withhold that quality. It may allow them to come into our country without restriction or forbid or regulate their coming, as it may like.

The committee have seen fit, by the provisions of this bill, to make them citizens of the United States, not because of any supposed constitutional compulsion, but solely because, in the opinion of the committee, having due regard to the best interests of all concerned, it is

deemed wise and safe to make such a provision.

The effect of conferring citizenship on the inhabitants of Porto Rico is well stated by Judge Cooley, as editor of Story on Constitutional Law (sec. 1932), where, speaking of the Fourteenth Amendment, he says:

The word "citizen" is employed in the law in different senses and different circumstances. As generally employed, however, it may be said to be a person owing allegiance to the government, and entitled to protection from it. Such, doubtless, is the meaning of the word here used. It therefore includes females as well as males, minors as well as adults, those who do not, as well as those who do, possess the privilege of elective franchise. This clause consequently confers the right to vote or to participate in the government upon no one.

In a note under section 1933 he further says:

Persons brought in by the annexation of territory are not regarded as aliens, but as citizens. So it was decided in the case of Mr. Yule, chosen a member of

Congress from Florida; and this ruling has been acted upon since as clearly and unquestionably correct.

In section 1934 Judge Cooley says further:

These things are beyond question among the privileges and immunities of citizens of the States: To be protected in life and liberty by the law; to acquire, possess, and enjoy property; to contract and be contracted with under general laws; to be exempt from inequality in the burdens of government; to establish family relations under the regulations of law; to choose from those which are lawful the occupation of life; to institute and maintain actions of every kind in the courts; and to make defense against unlawful violence.

Surely the inhabitants of Porto Rico should have all these rights. The Supreme Court said in 18 Howard, 591, that it would not undertake to enumerate the rights, privileges, and immunities that pertain to citizenship, but those above given might be added to if a full enumeration were attempted instead of mere illustrations.

It has been suggested that corporations organized in Porto Rico will be deemed "persons" within the meaning of the fourteenth amendment, and that as such they will become citizens of the United States. It was held in the case of Paul v. Virginia, 8 Wallace, 168, that corporations, although "persons" in a certain sense, are not citizens within the meaning of the Constitution, and that they can not, therefore, pass from State to State as a citizen, but only on such conditions as the State to which they are foreign may see fit to prescribe. This decision has been followed by the Supreme Court in 119 U. S., 110-119; 125 U. S., 181-189, and other cases, and it is stated in Mr. Guthrie's work on the fourteenth amendment, page 58, that "they (corporations) are persons but not citizens."

But the effect of all the decisions and discussions of the subject are epitomized in the one sentence quoted above from Judge Cooley where he says that the term "citizen" means a person owing allegiance to a government and entitled to protection from it.

It was necessary to give to these people some definite status. They must be either citizens, aliens, or subjects. We have no subjects, and should not make aliens of our own. It followed that they should be made citizens, as the bill provides.

If, for any reason, the committee had thought it unwise or unsafe, they might have withheld that quality, and as it is within our discretion to make the inhabitants of Porto Rico citizens of the United States or not, so it is within the power and discretion of the Congress to make the inhabitants of the Philippines and other islands we may acquire citizens or withhold that quality from them. also within the power of Congress to regulate and restrict and prohibit, if thought advisable, the passing of the inhabitants of the Philippines or other islands from their country into ours, or to prevent the products of their labor from coming into unjust competition with the labor of this country. With respect to this whole matter Congress has now, since annexation, and will continue to have, complete and unquestioned power to legislate as it may see fit, and hence continue to afford the same protection heretofore given in all these particulars. It will be simply a question of policy hereafter in each case as it may arise, as it is now and has been beretofore.

It can limit or restrict its inhabitants in any other personal or public quality, privilege, or right, and may, therefore, tax them as other citizens or tax them more or tax them less than others; it may give them free markets in the United States or levy impost duties, as it may see fit; it may require them to pay internal-revenue taxes, or exempt them therefrom, as circumstances may indicate. It may do all these because all these relate to and affect and are included in their civil and political status.

The other provisions of the bill require but little comment. The propositions involved in them are not new. On the contrary, they have all been asserted, not only in theory, but in practice, repeatedly in our history.

The power to legislate for Louisiana, when that Territory was acquired, as Congress might see fit, was both asserted and exercised without regard to the wishes of the inhabitants, notwithstanding the treaty stipulation in that case guaranteed the ultimate incorporation of Louisiana and its inhabitants into the Union as a State. Substantially the same experience has been repeated in each case of the acquisition of territory that has since occurred.

On the question of power, therefore, to enact the provisions of this bill there is nothing open to controversy. The sole question is one of expediency, what is right, what is best.

With this idea in mind it seemed wise to continue the laws and judicial system now in force, subject, as already stated, to the modifications and changes made by military orders since our occupation, and subject also to such changes as Congress, or the local legislature with the approval of Congress, may at any time see fit to make.

The powers conferred upon the governor are essentially executive and only such as are usual.

The question that gave the committee most concern was as to the legislative authority and how it should be chosen and constituted.

Various views were presented. One was that Congress alone should legislate directly and exclusively for the island.

Another view was that all legislation should be by the governor, who should simply decree what should be done, subject to the approval of the President, who, in case of approval, should promulgate the governor's decree by public proclamation.

Others thought that there should be a local legislative body, but that it should consist of but one house, and that its members should be appointed by the President.

Others have recommended that there should be a legislative body composed of two houses, both elective, and that for the election of its members there should be universal and unrestricted suffrage granted to all male inhabitants of the island, citizens of the United States, over the age of 21 years.

Still other suggestions were made. It is enough to say that the committee, after carefully considering all of them, have concluded that there should be a local legislative body provided for and that it should consist of two houses, one appointive and the other elected by a suffrage restricted to those who can read or write or who possess property.

In view of the experience the people of the island have had in voting and the satisfactory results thereof, it is thought no harm can result therefrom to the efficiency of the government sought to be established and that on some accounts important advantages are to be secured. The people will be thereby given a participation in the government, which will attach them to it and interest them in its

success, and, in the second place, it will excite a desire to acquire property and an education in order that the right of suffrage may be enjoyed.

It should be added that the best and quickest way to qualify a people for self-government is to as far as possible give it participation and responsibility with respect thereto. By the exercise of even a very restricted suffrage the people of Porto Rico will become familiar with the duties and rights of citizenship that are associated with the ballot, in the intelligent and patriotic use of which resides the surest safeguard of popular government and free institutions. It is one of the highest obligations to give the people of Porto Rico every opportunity to fit themselves as rapidly as possible for their complete self-government.

The bill authorizes the election of a Delegate to the House of Representatives, who shall be allowed a seat but not a vote in that body, to be paid the same salary and be allowed the same rights provided by law for a Territorial Delegate.

This provision has met with some objection, but it is thought to be as important to the United States as to Porto Rico, and it is certainly a modest representation for 1,000,000 people, who were allowed by Spain 4 senators and 12 deputies in the Cortes.

It is not thought necessary to speak in this report of other features or details of the bill or of the various amendments recommended by the committee. It will be observed that they are only intended to make more plain and effective the principal provisions of the measure.

The debate on this bill continued from the 1st day of March, 1900, from time to time, until the 12th day of April, 1900, when the bill was passed. Every possible question raised by this legislation was presented and debated in a most thorough and exhaustive manner. The main contention was as to whether or not the Constitution extended, ex proprio vigore to these newly acquired possessions. Every question started with or came back to this. In the course of this debate Senator Foraker had occasion to say:

"I simply plant myself on the general proposition and point to the

authorities in support of it. There is where I shall stand until the Supreme Court tells me I am in error, if it ever is to so tell me, and I have no idea that it ever will. I have confidence in my opinion and therefore, Mr. President, I rejoice in the fact that the provisions of this bill are of such character as to make it inevitable that the Supreme Court of the United States will pass upon that question." (Congressional Record, March 8, 1900.)

At the time of the enactment of this law, and while it was pending in Congress, there was severe criticism of it by Republican as well as Democratic newspapers. In view of this fact there was a serious false impression with respect to its character. To meet these criticisms and correct this false impression Senator Foraker delivered a speech on the 21st day of April, before the Union League of Philadelphia, which was afterwards printed in the Congressional Record of April 30, 1900. This speech so fully and completely sets forth the nature of this organic law for the government of Porto Rico and the necessities for it, that it is here inserted in full:

## Porto Rico.

It belongs to the United States, but is not the United States, nor a part of the United States.

### SPEECH OF HON. J. B. FORAKER.

The Senate having under consideration the conference report on the joint resolution (S. R. 116) relating to the civil government for Porto Rico, and the act of April 12, 1900, providing a civil government for that island, being criticised—

#### Mr. FORAKER said:

Mr. PRESIDENT: In view of the criticisms that Senators have made of the legislation that has been enacted for Porto Rico, I ask leave to print in the RECORD as my answer a speech delivered by me, April 21, before the Union League of Philadelphia on that subject. I ask this rather than detain the Senate at this late hour.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hears none, and it is so ordered.

#### UNION LEAGUE SPEECH.

#### Mr. FORAKER said:

Mr. President and Gentlemen of the Union League: The criticism of the legislation in respect to Porto Rico has been due to two misapprehensions.

First, as to the attitude of the President in regard to it; and second, as to the legal relation of Porto Rico to the United States.

The President, in good faith, recommended free trade between the United States and Porto Rico, but earnestly favored and personally—as well as officially—approved the bill that has been passed, because, in the first place, its provisions are a substantial and almost a literal compliance with his recommendation, and in the second place, they are far more liberal and generous than his recommendation was, and because, in the third place, in so far as the bill fails strictly to comply with his recommendations, there was a necessity therefor, recognized by the President and all engaged in framing the legislation that has been enacted. The President, in his message, used this much-quoted language:

Our plain duty is to abolish all customs tariffs between the United States and Porto Rico, and give her products free acess to our markets.

When he made that recommendation he had reference to what had occurred and the then existing conditions. Before Porto Rico was ceded to us she traded almost entirely with Spain and Cuba; but when the cession occurred, both Spain and Cuba closed their ports against her products, except on payment of tariff duties that were so high as to be practically prohibitive.

The President, as Commander in Chief during the military occupation, could control the tariff duties levied on imports into the islands, but had no power to alter those imposed by law on imports into the United States. In consequence our ports remained closed to Porto Rico except on payment of full Dingley rates of tariff, as were those of Spain, Cuba, and the rest of the world, and, as a result of it all, the war took from Porto Rico the markets she had and gave her none in return. This occasioned complete business stagnation and paralysis. Idleness prevailed everywhere, and soon tens of thousands were in want, and suffering for the necessaries of life.

#### THE PRESIDENT'S INTENT.

This condition was relieved slightly by an Executive order that placed all food supplies, implements of husbandry, machinery, etc., on the free list going into Porto Rico: but matters were constantly growing worse, when, on the 8th day of August, 1899, the island was visited by a hurricane that devastated the coffee plantations and did great injury to all kinds of property.

By this course of events the people had been brought to absolute poverty and despair when the President wrote his message. What he had in mind was not any great principle or legal right or

obligation, but practical and speedy relief for a suffering and starving people. It occurred to him that the greatest and speediest measure of relief would be realized by giving them free access to our markets.

. . .

He thought that would be kind, generous, liberal, and helpful to them, and he favored it for that reason. But in that message the President also pointed out the necessity of providing for Porto Rico a civil government to take the place of military rule, and recommended immediate action in that respect.

Both recommendations were general in their nature; both were made with full knowledge that action on the part of Congress could not be taken until an investigation might be made, and that the results of that investigation would, of course, control and determine the exact character of action to be taken.

Accordingly, when these recommendations were referred to the appropriate committees of Congress, they entered upon the work of investigating the conditions and general situation in Porto Rico for which they were to legislate.

As a result they found that the President was correct in saying that a civil government should be at once established. On many accounts this necessity was imperative, and they found that this government would require for its support not less than about \$3,000,000 annually.

They found also that an additional million dollars would be required to support the municipal governments of the island, making an aggregate of not less than \$4,000,000.

They found that the total valuation of property of all kinds situated in the island would not exceed, for taxation purposes, \$100,000,000.

They found that this property was already burdened with a private debt, evidenced by mortgages on record to the amount of about \$26,000,000 of principal, with an accumulation of several years' interest at extravagant rates, that swelled the sum to probably \$30,000,000.

They found, in short, that poverty, bankruptcy, and ruin prevailed everywhere.

#### THE SITUATION AS GENERAL DAVIS SAW IT.

The following extract from the official report of General Davis is a true picture of the situation as the committee found it, except

that it had become still worse in the six months that elapsed after the report was written and before the bill was passed. General Davis said:

It does not require a demonstration to show that the industrial conditions existing before the hurricane, bad as they were, are excellent by comparison with those resulting from the storm.

Formerly but two-thirds of the labor that sought employment at 30 cents, American money, per day, could secure it, and now not on-third of the labor is employed at any rate of pay. A hundred thousand or more individuals are being fed from the bounty of the American people.

In some localities where the municipal government was feeble and the town councils did not command respect (and I am sorry to say these towns are not few in number), no collections whatever of taxes can be made. Some who could pay will not, because of their belief that the contributions will be squandered; others make this belief a pretext for nonpayment, and many others who were well off have no means whatever with which they can support their families.

The coffee lands suffered worst. These trees are planted on the hill and mountain slopes, and in many places the declivities are very abrupt. The gale tore up the trees, loosened the soil, and the deluge of water converted the earth into a semifluid.

#### RUINS SPREAD BROADCAST.

Then followed landslides, and thousands of acres of coffee plantations slid down into the valleys; trees, soil, rocks, and every vestige of culture are piled up in the bottom of the valleys. In such cases there is no restoration possible, for where there were smiling groves are now only bald rocks, which were uncovered by the avalanches.

Where the soil was not disturbed the most of the coffee trees were either uprooted, broken off, or stripped of foilage and the immature berries. The larger trees of other varieties, which are habitually grown for shade to the coffee, were blown down, and their protection to the coffee trees is also gone; so where the trees are not wholly denuded the protection of the berries from the sun's heat is absent, and the green fruit is blighted and spoiled.

It will take five years to re-establish these coffee vegas, and there will be necessarily years of want and industrial paralysis. The municipal governments are many of them prostrate. The police can not be paid, the prisoners can not be fed, and the schools must be closed if not wholly supported from the insular treasury.

From every town and village I am appealed to for financial help, donations; loans are asked, implored even, and the alternate of chaos is predicted as the result of refusal. Proprietors beg for financial help, and the homeless for rehabilitation of their dwellings.

#### IMPORT DUTIES THE ONLY HOPE.

The committee further found that no system of property taxation was in force in the island, or ever had been, and that it would require at least a year, and probably two years, to inaugurate one and secure returns from it, and that, inasmuch as the people had no familiarity with such a system, it would be difficult, probably, to enforce it, at least for a time.

The committee also found that the public revenues of the island, except only such as were raised by a burdensome and complicated excise tax on incomes and business vocations, had always been chiefly raised by duties on imports and exports, a system with which the people were therefore familiar.

The committee further found that this system was already in operation, and that revenues were then and constantly being collected, upon which, so far as they went, the government could at once depend.

The committee further found that our internal-revenue laws, if applied in that island, would prove oppressive and ruinous to many people and interests.

Thousands of persons in that island, as the testimony shows, are engaged in the manufacture of cigarettes and cigars in a small way: and rum, which is almost universally used—not so much as a beverage as for other purposes—is a species of distilled spirits which is sold in almost every store, grocery, and public place. To undertake to collect our heavy internal-revenue taxes—far heavier than Spain ever imposed—on these products and vocations would be to invite violations of law so innumerable as to make prosecutions impossible, and to almost certainly alienate and destroy the friendship and good will of that people for the United States.

The committee also found that the coffee grown in Porto Rico is of the highest grade and quality, and that it has always been protected by a tariff duty high enough to keep out of Porto Rico the cheap and low grades of coffee grown in Central and South America. We do not grow coffee, and therefore we admit it into the United States free of duty.

#### EPITOMIZATION OF SITUATION.

Here, then, to recapitulate, was the situation:

A civil government was a necessity. It must have \$3,000,000 for its support, and the municipalities must have at least one million more.

There was no system of direct taxation of property in operation. There was no time to establish one. Moreover, if there had been time, such a system would have entailed upon that people an impossible burden.

Four per cent, or even 3 per cent, is too burdensome a tax rate to impose on the property of even the most prosperous State in the Union. To impose it on Porto Rico would mean only disaster, failure, bankruptcy, and despair.

In view of these considerations, we decided, first, that we would find some way to exempt the people of that island from the direct taxation of their property, such as every other State and Territory of the Union has always been subjected to. The generosity of this proposition was far greater and more helpful than that recommended by the President. No such favor has ever been shown to any other people for whom we have legislated.

We next decided, for the reasons already given, that we would not, for the time being, undertake to apply and enforce our internal-revenue laws in the island, but, except on merchandise imported into the United States, we would exempt the people of Porto Rico therefrom-another unprecedented favor, never before shown to anybody—and, in the third place, we decided that we would protect their coffee, which constitutes their chief industry and amounts to more than two-thirds of their exports, from injurious competition by levying a duty of 5 cents a pound on all coffee imported into Porto Rico; and then, finally, we determined that there should be collected on all goods imported into Porto Rico from foreign countries tariff duties as provided by the tariff laws of the United States; but that, instead of turning this money over to the National Treasury for the benefit of the United States as we have always heretofore done to every other Territory, we would turn it over to Porto Rico for the benefit and support of its government.

We then found, according to the best estimates we could make, that when all this had been done there would remain a large deficiency, amounting to from \$1,000,000 to \$1,500,000.

# TAX REDUCED, NOT PUT ON.

The question, then, was how further we could raise revenue without directly taxing the property of the island to meet this deficiency; and we found that we could, in our opinion, best accomplish this by leaving a light tariff duty upon the commerce between the United States and Porto Rico; and so we finally concluded, and provided in the bill that instead of absolute free trade, which all desired, as well as the President, we would for a short time, until the local government could be put in operation and devise a system of taxation for its support, reduce the tariff on dutiable goods coming from Porto Rico into the United States only 85 per cent, instead of entirely remitting it, and that we would, for the present, allow all food products and necessaries of life, farm implements, machinery, etc., to enter Porto Rico free of duty; but on other articles, whatever they might be, we would reduce the Dingley rates only 85 per cent. You hear constantly of our putting on com-

merce with Porto Rico a tariff of 15 per cent, when the truth is we removed all but 15 per cent. We did not add or increase, but reduced and remitted.

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We expressly provided, however, that on and after March I, 1902, there shall be absolute free trade between Porto Rico and the United States, and that there shall be such free trade sooner—in a year, six months, or ninety days, possibly—whenever the local government shall have provided otherwise for its necessary revenues, and that, in the meanwhile, all collections, both those to be made in Porto Rico and those to be made in the United States, shall be paid over to Porto Rico for the support of its government without placing an additional burden upon the already overburdened lands and property of the island.

No such liberal and generous government as to revenues was ever given by this nation or any other to any Territory or colony. It far surpassed all recommendations and all expectations. It should be further stated that an analysis of the articles constituting this trade shows that this tax so imposed would be borne almost exclusively by the sugar and tobacco interests, more able than any others to bear it without feeling any burden.

# DEMOCRACY'S WRONG POSITION.

Our Democratic friends said, "The Constitution follows the flag," and that we were violating that instrument; that it required that duties, customs, and imposts should be uniform throughout the United States, and, consequently, we could not have free coffee here and protected coffee there; internal-revenue taxation here and no such taxation there; that we could not collect tariff taxes there, except as here, for the common benefit of the whole country; and that Porto Rico being a part of the United States, we could not collect tariff duties on commerce between there and here any more than between New York and Pennsylvania.

I think they believed what they said; and, no matter what happens, I think they will always believe it; but I think, nevertheless, they were wrong about it, just as they were wrong when they contended in 1861-1865 that there was no constitutional power to preserve the Constitution, and when a year ago they contended

that we could not acquire territory, even by discovery or conquest, except with the present intention of ultimately admitting it to statehood.

But, however that may be, we answered that, in our opinion, Congress had power to govern these new acquisitions, and if so, it must be a power to govern them according to the varying conditions of each; that if the best interest of Porto Rico required a duty on coffee we ought to be able to give it or surrender the island; that if the destitution and poverty of the people of that island were such as to require an exemption of their property from taxation, we ought to be able to grant it or confess our incompetency to govern; that if the necessities of the new government require that tariff duties collected in the island should be paid to it for its support, we ought to be able so to provide; and that if the duty on commerce between there and here would be advantageous to the island, we ought to be able to legislate accordingly; and we not only contended that, in the nature of things, we should have such power, but that we do have such power, and that our position is fortified not only by reason, but also by authority.

The argument was long, it was exhaustive, it was convincing to the majority, and the legislation followed. It is unnecessary and impracticable to review it here, but suffice it to say that the radical, basic difference in the whole matter lies at the very beginning—as to whether or not Porto Rico is a part of the United States.

#### TRUE STATUS OF PORTO RICO.

I have observed that not only the Democrats but many Republicans have assumed the affirmative of this proposition to be true. Such is not the case. Porto Rico belongs to the United States, but it is not the United States, nor a part of the United States.

When we acquired Louisiana, Florida, New Mexico, etc., it was provided in the treaty in each case that the inhabitants should be incorporated into the Union of the United States and be admitted to all the rights, advantages, and immunities of citizens of the United States.

The act by which we annexed Hawaii declares in express terms that the Hawaiian Islands shall become and be a part of the United States. But no such provision was incorporated in the treaty of Paris as to Porto Rico and the Philippine Islands; and if there had

been, it is safe to say that treaty would never have been ratified. On the contrary, for the purpose of making it clear that no such consequence was intended, it was provided in the treaty that—

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by Congress.

This provision was insisted upon by our commissioners and was necessary to the ratification of the treaty, because we had then too little knowledge of the people of the Philippines and not enough of those in Porto Rico to know whether it would be wise or desirable to incorporate them into our body politic and extend to them the privileges and immunities of American citizenship and undertake to govern them under the Constitution and subject to its restraints and requirements.

The Constitution provides that a treaty shall be a part of the supreme law of the land. This provision gave to Congress an undoubted right to incorporate the inhabitants of these islands into the Union of States, as was provided in the Louisiana, Florida, and Mexican treaties, or to leave outside, as it might deem advisable; to make them citizens of the United States or withhold from them that quality; to impose on them the same burdens of taxation that are imposed on the people of the States and Territories of the United States or different burdens—heavier or lighter; to require them to pay internal-revenue taxes or not pay them; to give them free trade with us or to restrict it, for all these matters enter into and constitute their civil rights and political status.

#### THE POWERS OF CONGRESS.

In other words, the Congress had plenary power over the whole subject by the terms of the treaty itself; but Congress had this same power under the Constitution.

The third section of the fourth article provides:

Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. It will be observed that the Constitution, by the language of this provision, draws a distinction between the United States and territory belonging to the United States, and that it places territory belonging to the United States on a par with "other property," so far as the power of the Congress to deal with it is concerned. Congress can sell or give away—"dispose of"—territory that simply belongs as property to the United States, but no one has ever pretended that the Congress has power to sell or part with any portion of the United States.

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Congress must govern the United States according to the Constitution, which is the organic law of the Union, but it can govern a territory that simply belongs to the United States as it may think best, restrained only by the positive prohibitions of the Constitution and the general spirit of our institutions, which is above all written law.

In providing government for such territory Congress may enact that the Constitution shall extend to it, or, rather, that it shall have force and effect therein, to use a more accurate expression.

In such case the Constitution, in so far as applicable, would be a rule of action to be observed there the same as in any State, but in the absence of such action by Congress it would not have there such force and effect.

This doctrine has been clearly established by repeated decisions of the Supreme Court of the United States, as I understand them, and has been uniformly acted upon in all legislation for our Territories since the beginning of our Government.

In the early Territorial legislation the Constitution was not extended to or given force and effect in the Territories by Congress, and all legislation proceeded on the theory that in consequence the Congress was not limited or restrained by its requirements, except as already indicated.

Since 1850 it has been the practice "to extend" the Constitution to Territories, a clear recognition of the fact that without such action it does not so extend.

We have heard much in the recent discussion about the Constitution extending, ex proprio vigore, to newly acquired territory at the moment of its acquisition.

This doctrine originated with John C. Calhoun and was advocated by him for the first time in the debates preceding the legislation establishing the Territorial governments for New Mexico, Arizona, and Utah, and he advocated it in the interest of human slavery, to carry that institution into those Territories.

#### EXTENSION OF CONSTITUTION.

Thomas H. Benton, in his Thirty Years in the United States Senate, on page 713, Volume II, has this to say of the origin of this doctrine, its purposes, and its character:

A new dogma was invented to fit the case—that of transmigration of the Constitution (the slavery part of it) into the Territories—overriding and overruling all the anti-slavery laws which it found there, and planting the institution there under its own wing, and maintaining it beyond the power of eradication, either by Congress or the people of the Territory. Before this dogma was proclaimed efforts were made to get the Constitution extended to these Territories by act of Congress; failing in these attempts, the difficulty was leaped over by boldly assuming that the Constitution went of itself—that is to say, the slavery part of it.

History can not class higher than as a vagary of a diseased imagination this imputed self-acting and self-extension of the Constitution. The Constitution does nothing of itself—not even the States for which it was made. Every part of it requires a law to put it into operation. No part of it can reach a Territory unless imparted to it by act of Congress.

#### FOLLY OF DEMOCRATIC POSITION.

Mr. Benton is none too severe in his comments. If the Constitution had such migratory powers it would involve us in all kinds of embarrassments and weaknesses. Territory once acquired could never be parted with, because a part of the United States, no matter how undesirable it might prove. If, instead of stopping when we did in the Spanish war, we had gone on and taken Spain itself, it would have been no longer Spain, if we had concluded to hold it,

but the United States, to be governed according to our Constitution, no matter how inapplicable and unsuited to that people its provisions might be.

- . .

If we should discover a new country, the mere act of planting the flag and taking possession would make it a part of the United States, to be governed by the Constitution, no matter how unfit its inhabitants for such government.

You have only to pursue the subject to multiply absurd consequences. The truth is, our fathers intended, in all matters, and particularly in so vital a matter as the acquisition and government of territory, that our Government should have complete sovereign power—should be the full equal in power of any other sovereign power on earth.

They so declared in the Declaration of Independence when they proclaimed that "These United Colonies are and of right ought to be free and independent States; that they are absolved from allegiance to the British Crown. \* \* \* and as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

Such was their declared purpose, and the Constitution gave effect to that purpose by conferring on the National Government the power to declare war, conclude peace, make treaties, and make all needful rules for the government and disposition of territory belonging to the United States.

Pursuant to these powers, and in the exercise of them, we had war with Spain. We were successful. We invaded and captured her territory. We concluded peace, and, as one of the conditions, exacted a cession to the United States of Porto Rico, the Philippines, and Guam. All came to us by the same title. All stand in the same legal relation, unaffected by the fact that some came willingly and others resisting our authority.

#### LIMITATIONS OF OUR POWER.

Therefore it follows if Porto Rico is a part of the United States, so are the Philippines. If the Constitution is in effect in Porto Rico as a result of mere acquisition, so is it in effect in the Philippines. If duties, imposts, and excises must be uniform in Porto Rico as compared with the United States, so must they be in the

Philippines. If the Porto Ricans are citizens of the United States, so are the Tagalos, the Sulus, the Igorrotes, the Negritos, and all the other numerous tribes and peoples of the archipelago.

If we can not protect coffee in Porto Rico, we can not protect hemp, sugar, tobacco, or anything else in the Philippines. If we can not exempt Porto Rico from internal-revenue taxes, we must compel their payment in Luzon and Mindanao. If we can not levy tariff duties on goods going into Porto Rico from the United States, we can not levy them on goods going from here into the Philippines. If we can not tax goods coming from Porto Rico into the United States, we can not tax goods coming here from the Philippines. Whatever we can or can not do in the one case is and must be the measure of our power in the other.

The legislation that has been enacted for Porto Rico raises all these questions, and it is fortunate that it does, for sooner or later, and the sooner the better, they must find their way to the Supreme Court of the United States, where, and where alone, they can be authoritatively settled. I have my opinion as to what the court must hold, but others have a contrary opinion, and they have so read and interpreted the authority as to support their views.

For two years and more we have been arguing these questions and discussing the decisions bearing upon them without other apparent effect than to confirm differences.

Party lines have now been drawn with respect to them, and the one view or the other will prevail, so far as the political department of the Government is concerned, accordingly as the one party or the other party is in power.

This will continue until the only tribunal that can settle it in a way binding upon all has spoken. The consequences are so momentous and so far-reaching as to make it highly important that we have this settlement at the earliest convenience. We have reached the point in the development of our resources and the multiplication of our industries where we are not only supplying our home demands, but are producing a large surplus, constantly growing larger. Our greatest present and prospective commercial need is for markets abroad. We can not find them in the countries of Europe. Their demand upon us is limited. They strive to supply themselves and to compete with us in the markets of the world. Our opportunity (and theirs also) is in the Far East.

In China, Japan, Korea, the Straits Settlements, Australasia, and Oceanica there are from 600,000,000 to 800,000,000 people with whom the rest of the world has just begun to trade.

Our competitors recognize that this commerce, now only fairly begun, will grow rapidly to hundreds and then on to thousands of millions annually. Russia, Germany, France, and England are all striving to secure their full share, and only recently there were indications that some of these nations were not only willing but intending to take it all. It seemed as though the door was to be closed against us, but now it has been happily settled otherwise.

# WHAT M'KINLEY HAS DONE.

Many great deeds of both war and peace stand to the credit of the Administration of William McKinley, but there are few, if any, greater in far-reaching good to the American people than has been accomplished by the diplomacy that has secured for us an open door to the markets of China. Through his wisdom, foresight, and statesmanship it is now assured that we are to have an even chance for our full share of that great commerce, and that is all we ask with respect to it.

The skill of our artisans and the ability of our merchants, manufacturers, and representatives will do the rest. For many years to come we shall have customers for all that we can produce. What this makes possible in development, in power, in wealth, in happiness, in glory, and honor to the American people and the American name no language yet employed has exaggerated.

But an open door to China means an open door to the Philippines or a mean and niggardly refusal to grant what we have so generously demanded and so gloriously secured, and an open door to the Philippines means that the ships and merchandise of other countries shall enter the ports of those islands upon the same terms and conditions that our own ships and merchandise enter them.

If the Philippines are a part of the United States, and the Constitution is already in force and effect there, ex proprio vigore, simply because the flag is there, and if, on this account, we can not levy a tariff duty on our merchandise going into the Philippines, then, of necessity, it must go in free of duty; and if we enter free of duty, then everybody else who is to share the open

door policy with us will also, of right, enter free of duty; and if, when there in the Philippines, they are already within the United States, on the theory that they are a part of the United States, instead of a mere possesssion belonging to the United States, then indeed are we undone; for in such case it must follow that no tariff duties can be levied on articles coming from there here, even for the purpose of revenue; and thus an open door to the Philippines would prove an open door for the whole world to the whole United States.

To avoid the force of this result it has been suggested that all talk about an open door to the Philippines is mere speculation. That is not true. It is not speculation. While it is true that we have it within our power to refuse, it is not within our power to avoid meeting the question, and as soon as the insurrection has been suppressed and a civil government has been established, we must pass upon it, either to grant or refuse it.

If we should grant it and then find out that the position the Republican party has taken as to the power of Congress, as exercised in the Porto Rico case, is untenable, we would have made a mistake against which there would be no ability to relieve except only by a radical change of policy with respect to the whole subject.

But those who say that talk about an open door is speculative lose sight of the fact that, by the terms of the treaty of peace, Spain already has, for the next ten years, an open door to the Philippines, and if it should turn out that we can not levy duties on our products going into the Philippines, neither can we levy duties on goods from Spain going into the Philippines, and whatever may be said as to the right of other nations, under "the most-favored-nation clause" of our treaties with them, to enter with their ships and merchandise on the same terms accorded Spain, it can not be doubted that Spain, and through her other countries, can ship into the Philippines without limitation and from there here, without restriction or duty of any kind, except only such as we have power to impose on what comes from the Philippines here in our own ships, in our own commerce with those islands, and that would mean free entry for Spain into the whole United States, and for all others who might make of Spain and the Philippines an open door. On this point there is no speculation, but only serious reality. All this might be elaborated, but I have said enough to indicate the considerations that controlled the legislation for Porto Rico.

#### PORTO RICANS HELPED.

It was never expected that our Democratic friends would be able to both understand and appreciate it, but certainly all Republicans ought to be able to see the necessity and the wisdom of what has been done, and that, instead of having been discriminated against, the Porto Ricans have been favored in the matter of taxation with the most liberal and general provisions that have ever been made for anybody by our Government, while at the same time our own interests have been protected against all possible contingencies.

In every respect this legislation is commendable. Some of the opposition newspapers have been claiming that the civil government provided for concentrates too much power in the hands of the President. I do not remember that any Democratic Senator made any such criticism. On the contrary, they very generally approved the bill in that respect; but without regard to that fact, the truth is that, by comparison, it will be seen that the civil government provided for Porto Rico is far more liberal than were any of the early Territorial governments established for our own people, and quite as liberal as our responsibilities will allow.

The first Territorial government established after the adoption of the Constitution was for Louisiana, and in that case all executive, legislative, and judicial power was lodged in the appointees of the President, who was made absolutely autocratic.

That was under Thomas Jefferson, who was certainly thoroughly Democratic. The same was true of the Territoral governments of Florida, Mississippi, Alabama, Arkansas, Missouri, and others, on down until the days of Republicanism.

The people were not allowed to choose any of their officials under these Territorial governments. It has been only in later years, and under Republican rule and legislation, that they have been allowed a partial participation in the conduct of their governments. Even to-day in our Territories, inhabited by our own people, familiar with our institutions and the spirit of our laws, and accustomed to governing and capable of doing so, the President appoints the governors and the judges and all the principal officials.

#### REPRESENTATION IN LEGISLATURE.

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In Porto Rico we allow the people to elect the lower house of the legislature and give them representation by appointment in the upper house and in all other departments of their government.

The provision that the upper house of their legislative assembly shall be appointed by the President is due to the fact that among its members are the bureau officers, upon whom will devolve the responsible duty of organizing all the departments of that government, and upon whom we must rely to make that government as nearly American as possible.

In no other way could we safely proceed to secure the necessary ability and experience for such work.

Like everything else the Republican party undertakes, we propose to make of this a success—a success for Porto Rico and a success for the United States—and when that has been done we shall only be too glad to increase the participation of the Porto Ricans in the conduct of their government as rapidly as they are found equal to its demands, and nobody will be happier than we when we can give over the whole matter to themselves. I hope and believe that the day is not far distant, but it would not be kindness to Porto Rico to do that now.

They have in that island about 1,000,000 people. Of this whole number only about 15 per cent can read or write in any language. Only about the same number own any property. This means that there are in that little parallelogram of the sea, about 100 miles in length and 35 miles in width, fully 800,000 men, women, and children who are absolutely illiterate and who are as dependent as poverty can make them. None of them have had any experience in governing themselves, and very few have any conception of what is meant by free popular government according to our ideas and institutions.

# CHARACTER OF ISLANDERS.

They are of the Latin race, and are of quick and excitable temper, but they are at the same time patient, docile, frugal, and most of them industrious. The children show great aptness and ambition to acquire an education and to learn to speak our language, and all seem anxious to learn our ways and to qualify themselves for the higher and better conditions that await them.

They have never known what it is to have schoolhouses and public instruction. They are almost entirely without highways. Their island has never been developed or improved, but we have made provision under which, during the next twelve months, there will be erected in Porto Rico more schoolhouses than were constructed by Spain during all the four hundred years of her rule, and more roads and bridges and public improvements will be under construction in six months from this time than even the Porto Ricans themselves ever contemplated or desired.

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This is the beginning of a new era. It has taken time to provide this machinery, and will take two or three months more to set it fully in operation, but the start, when made, will be a sure one, to be followed by the quickenings of a new life, with new and manifold opportunities for peace, happiness, and prosperity far exceeding any hopes that have been excited or any anticipations that have been entertained.

When General Miles landed in that island, at the head of our gallant and victorious Army, he made proclamation that he had come not as an enemy, but as a friend, and that the United States would restore to them prosperity and give them the benefits of our liberal institutions of government. The inevitable results of the legislation that has been enacted will constitute a complete redemption of all these promises, and a triumphant vindication of the capacity of the Republican party for that constructive statesmanship so essential to the safe guidance of the Republic in its onward course of expanding growth and power.

Since this Union League Speech the legislation which it discusses has been fully put to the test with the most satisfactory results. After one of the most elaborate arguments that has occurred in the United States Supreme Court for many years, that Court fully sustained the constitutionality of the act in a most elaborate opinion, with which the whole country is familiar. In the meanwhile, under the able administration of Governor Allen, the civil government authorized by the law has been organ-

ized and put into sucessful operation. A prosperity such as the people of that island never before knew has commenced, and in every way the wisdom of this legislation has been successfully and thoroughly vindicated. So great is the appreciation of the people of Porto Rico for Senator Foraker in securing for them the enactment of this legislation that they recently sent a committee to Cincinnati, there to meet and personally thank him for what he has done for them. This notable incident is worthy of more than a mere passing notice, and therefore the full account of the same, as it appeared at the time in the Commercial-Tribune, is here incorporated:

# Porto Ricans Come Here to Thank Foraker.

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Senors Brioso and Barbosa the Distinguished Visitors.

"One of the most significant events of recent history was the banquet and reception given at the St. Nicholas last night by Senator Foraker in honor of his guests, Senors Jose C. Barbosa and Jose S. Brioso, of San Juan, Porto Rico.

It was an indication of the good feeling that prevails among the intelligent classes of Porto Rico toward this country—of the appreciation on the part of the islanders of the efforts made in their behalf by the present administration; of the hope of the people of the island for complete citizenship in the near future, and mostly of the deep feeling of gratitude which those people hold for Senator Foraker.

The senior Senator from the Buckeye State holds a greater place in the hearts of the people of the island of Porto Rico than probably any other living man. He is revered down there as the champion of the rights of those people of the south seas, and his name is reverenced among all classes.

#### FATHER OF THE COUNTRY.

The Porto Rican guests, in the speeches which they made at the banquet, spoke of Senator Foraker as "The Father of Our Country," and "The Father of Porto Rican Liberty," names that are likely to cling to the Senator in the history of the little island until that history shall be no more and the ruins of Morro Castle shall have crumbled into dust.

In the first place, the very fact that two of the most distinguished and most influential men of Porto Rico—statesmenorators, members of the Porto Rican Congress of Council, gentle-

men of wealth and position, patriots who have only the good of their country at heart—should have journeyed from the tropics to this city to personally thank the Senator who introduced the bill that gave Porto Rico her civil government, is very significant. It is an affair unique in the history of colonial possessions. It is an indication that the people of that island are satisfied with what has been done and are willing to trust the United States to do all that it is possible to do.

# HONOR KNEW NO PARTY.

It was a distinguished assembly of Cincinnati people that gathered round the banquet board at the St. Nicholas last night to do honor to the visitors from the West Indies. There were men of all parties and of many walks of life.

The banquet was an impromptu affair, it having been arranged yesterday morning, after it became known that Senors Barbosa and Brioso had to leave the city on the 9 o'clock train. Senator Foraker sat at the head of the banquet table, with Senor Barbosa on his right and Senor Brioso on his left.

At the conclusion of the feast the Senator, in a brief speech, introduced Senor Barbosa. In this speech Senator Foraker expressed his deep sense of appreciation of the compliment that had been paid to him by the visit of the Porto Ricans. He said that the people of Cincinnati appreciated the honor, too, and that it would tend to awaken in the hearts of the Cincinnatians renewed interest in the welfare of their brothers in the island of the summer seas.

# BARBOSA IS ELOQUENT.

Senor Barbosa followed Senator Foraker and made a speech that was warmly applauded from beginning to end. The speech was really a gem. Senor Barbosa exhibited the spirit of the true orator. He speaks English with a pronounced Spanish accent and at first experienced some difficulty in expressing himself, but when he got warmed up to his subject he simply glowed with the excitement and enthusiasm of the occasion and became remarkably eloquent. So apt and so catchy were some of his phrases and so manifestly sincere were his expressions of friendship and regard for the American people that he was applauded with a spontaneity that was the highest kind of a compliment. Said he:

"It gives me great pleasure to be able to address so representative a body of Cincinnatians. I shall always remember my visit to the city of Cincinnati as one of the most pleasant experiences of my life, and I wish now to thank you all for the honor you have done me in attending this reception. I am delighted to be able to tell you of some of the feelings of the people of Porto Rico. In their behalf I want to say that they are loyal and true citizens of the United States. In the life of man it is usual for him to cling to old traditions and to old customs—to look back in age at misfortunes of youth and to have those misfortunes transformed, through the mists of the years, into joys and pleasures.

# SPAIN'S DESPOTIC RULE.

"The people of Porto Rico suffered for 400 years under the tyrannical rule of despotic Spain. But the people were accustomed, in a measure, to that rule, and had the advantages of United States rule been less apparent at the start we might have looked back longingly at the things we had left behind, be they ever so bad. As wrongs recede into the shadows of the distance as Time's mantle is drawn slowly about the old troubles-those wrongs and those troubles do not retain the sinister shapes that once affrighted us. But in the case of Puerto Rico we, the people of that blessed isle, determined to cast aside all that was of the long ago and live in the future. We tried to forget. We wanted to progress. We knew that the great and glorious country to which we had allied ourselves was filled with men who were honest and brave and true, and would treat us as children-orphan children who were docile and loving and willing to do that which they were called upon to do. And our confidence was not misplaced. We have not got all that we would like to have—there are some things yet to come-but we know that they will come and that justice will be done us.

#### PRAISE FOR SENATOR FORAKER.

"We love Senator Foraker. He is the Father of Liberty in Porto Rico—the father, I might say, of our new country. This great statesman—this citizen of Cincinnati—this man whom you all know and love so well—is not as well known personally in Porto Rico as he is here, but he is just as well known by reputa-

tation, and he is just as well loved. He framed and introduced a bill establishing civil government on the island. We had been under military government for 400 years. The judiciary system was the system of favoritism. The Spanish Governor was absolute. What he desired the courts did. There was no liberty of press or pulpit—no liberty of person or of property. The people were merely the unwilling children of a very cruel and thoughtless parent.

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"Senator Foraker restored civil government. Ah, my friends, you who have never known what it is to live under a military government, do not and can not appreciate the joy that was ours when the Foraker bill (or the 'bill For-a-ker,' as Dr. Barbosa called it) was passed and civil government restored. In that bill the great Ohio Senator met the ideas and the requirements of the people of the island in most essential particulars. Previously the Republican party of Porto Rico was organized, and the first platform, adopted in March, 1899, called for the very things that were afterward granted in the Foraker bill. Is it any wonder that we love your Senator? Is it any wonder that we hope some day to be allowed to vote, and then be allowed to vote for him for President of the United States?

#### APPEAL FOR ADMISSION.

"In conclusion I want to appeal to you—to our friends in Cincinnati (for I feel that you are all our friends and brothers) to urge in every way possible that Porto Rico be admitted as a territory of the United States. And, when that is accomplished, we feel that we will be able to demonstrate to you that we are worthy of admission to full statehood. We want to become full-fledged citizens of the United States in every sense of the word. I thank you very much."

The applause that followed this eloquent address was distinctly heartfelt. It was spontaneous and came in such volume that the dark features of the Porto Rico statesman glowed with pride.

pride.

Senator Foraker made another brief answer to the speech, in which he thanked Dr. Barbosa for his expressions of friendship and for the assurance of love on the part of the people of the island.

# WILL COME QUITE SOON.

"I can truthfully say," said the Senator, "that there are none among the people of the island of Porto Rico who are more intent on accomplishing that which is good for the inhabitants of that island than there are in the Congress of the United States. The bill which established civil government of the island was drawn up after the most careful study of the conditions. It granted to the people all that was possible to grant them at that time. Dr. Barbosa asks that the people be given full citizenship. I believe that I am correct in saying that this will come later on and at a not very late date, either. The people of Porto Rico are capable of the highest type of citizenship, if the gentlemen who are with us tonight are fair representatives of the inhabitants of the island, and I take it that they are."

The Senator then introduced Dr. Brioso. Dr. Brioso is not so confident of his ability to handle the English language as is Dr. Barbosa, and he, at the Senator's suggestion, began his address in Spanish. Dr. Barbosa agreed to act as interpreter. But the Spanish speech only lasted for a few minutes. The work of translation was too difficult. Then Dr. Brioso astonished those present by launching forth into English and making a remarkably good speech, in which he showed that he has a very good knowledge of the English language and a remarkable aptitude for pronunciation.

#### PEOPLE ARE GRATEFUL.

Now and then he would have to stop and ask Dr. Barbosa, in Spanish, for a word suitable to the expression that he was attempting, but, aside from these not frequent stops, the address was a splendid one. Dr. Brioso expressed his love and admiration for the American people in much the same strain as did Dr. Barbosa. He said that the people of the island were thankful to Senator Foraker for what he had done and that his name was a household word from one coast to the other. He insisted that Porto Rico is destined to become one of the great states of the Union some day, and that the people are only sorry that that day is not close at hand. He also mentioned Senator Foraker as the choice of the Porto Rican people for President.

Murat Halstead, the veteran editor, was next called upon to address the gathering. He made a splendid speech, in which he said that the visit of the two Porto Rican statesmen was an event unique in the history of this country. It was an honor to Senator Foraker and to the people of the state of Ohio and the nation. Mr. Halstead then went into a brief resume of the history of Porto Rico, and predicted that it would be a great and growing state within a few years.

At the conclusion of the speech-making there were general leave-takings of the Porto Ricans and many expressions of regret that they were compelled to leave the city so soon. They started for Cleveland at 9:30, carrying with them pleasant recollections of their visit to Cincinnati.

#### TO PAY THEIR RESPECTS.

Dr. Jose C. Barbosa and Dr. Jose G. Brioso arrived here yesterday morning from Detroit, and were met at the train by Senator Foraker and escorted to the St. Nicholas Hotel. They came here, they said, for the express purpose of paying their respects to Senator Foraker, who had done more for the people of that island than any other living man. Both of the visitors are members of the Executive Council of Porto Rico, a body created by the Foraker bill, and corresponding to our State Senate. Senor Barbosa is probably the best known and most influential man of the entire island of Puerto Rico.

Both visitors are highly educated, intelligent, progressive gentlemen, and the impression they made on those invited by Senator Foraker to meet them was of the best.

Dr. Barbosa says that the Ohio statesman is the idol of the people of the island, and that if he will only visit them, nothing will be too good for him.

"At first the people did not seem to understand the Foraker bill," said he, "and we who did know what it meant and how advantageous it would be for Porto Rico had some difficulty in educating the people up to a thorough appreciation of the merits of the measure. Now, however, there are few men of intelligence in Porto Rico who do not concede full praise to the wisdom of your great Senator. He is one grand man. We love him and would

like to be able to vote for him for President of the United States. Maybe we will be allowed to vote for him for that office some day."

A simple recital of these facts is sufficient to show the distinguished services that have been rendered by Senator Foraker to his country and his party in the four short years since he became a member of the Senate of the United States, and to emphasize the wisdom of the State Republican Convention in declaring by unanimous vote in favor of his re-election.

#### OTHER SERVICES.

Senator Foraker spoke on many other subjects of great importance, such as the acquisition of Hawaii and the establishment of an International Bank. The limitations of this work are such as to make it impossible to refer to these speeches even briefly. The only purpose of the writer is to set forth enough to show that Ohio has had a representative who has been alive to the importance of the great questions with which the Congress of the United States has had to deal, and who has creditably borne his part in their discussion and settlement. It can be truthfully said of him that he has brought fame to his state; his services have not been excelled in value, nor his speeches surpassed in logic and eloquence by any of his colleagues.

Since he was elected to the Senate he has made many notable speeches outside of that chamber. It is not necessary to review them here, for the people of Ohio are familiar with his record in this respect. It is appropriate, however, to include here, because of its application to the pending campaign, the speech delivered by him as temporary chairman of the Republican State Convention held at Columbus, June 24th, 1901. It presents in concise form the recent achievements of the Republican Party, and shows with striking force the many reasons why it should be continued in power. On that occasion Senator Foraker said:

# SPEECH TO OHIO STATE CONVENTION JUNE 24, 1901.

GENTLEMEN OF THE CONVENTION: Our approaching election will be the most important held this year in the United States. It is but a state election in name, but it will be distinctively National in both character and importance.

#### STATE AFFAIRS.

The administration of Governor Nash has been so wise, so economical, so just, and so efficient that it stands absolutely without criticism. There is no issue with respect to it, and none can be made.

The last General Assembly was a model. It enacted only wise laws, and in every way guarded the public welfare.

Our state institutions are all in excellent condition and the financial affairs of the state were never more satisfactory.

If, therefore, only state officers and state questions were involved we could be safely content to point to the record and claim the people's verdict.

But more is at stake—vastly more—and, therefore, we see the signs of coming battle and must expect determined opposition.

#### NATIONAL QUESTIONS.

The Legislature chosen this year will be charged with the duty of electing a United States Senator and redistricting the state for representation in Congress.

We now have two Republican Senators and seventeen Republican members in the House of Representatives. If the next Legislature should be Democratic, we will have but one Senator and not more than twelve Republican Congressmen, and, probably, not more than ten—the number we were allowed the last time a Democratic Legislature gerrymandered the state—and this reduced representation in the National House of Representatives would be fastened upon us, not simply for the next Congress, but for the next ten years, making a net loss to us of not less than twenty-five votes in Congress for the next decade.

It is this fact that gives the campaign upon which we are entering its National character, and thrusts upon us, whether we would have it so or not, the discussion and consideration of National policies and National questions; and it is for this reason that every vote cast in our state next November will be a vote for or against the administration of William McKinley, just as certainly and emphatically as though he were again our candidate this year,

as he was last, for we must, of necessity, by the action we take, indorse his work and give him encouragement or discredit his record and embarrass his efforts.

#### MCKINLEY'S ADMINISTRATION.

His first administration was triumphantly successful, but it could not have been so had it not been supported by a Republican Congress. His second administration can be, and will be, even more illustrious than his first, if we give him that same support, but it can not be, and will not be so, if we withhold it.

All this might be truthfully said as to the election of members of Congress from any state, but it is particularly true when spoken of Ohio.

This is the President's own state. In population, wealth, intelligence and influence we stand in the very forefront. Ohio represents the average sentiment of all the states. When she speaks the whole country gives heed. Our influence affects the President, affects Congress, affects public opinion, affects public policies, determines public questions and promotes or retards the public welfare.

The achievements of the past four years are still in large measure incomplete and insecure.

We have unexampled prosperity, but a Democratic wave would blight it.

We have unheard of combinations of capital, against which the rights of the people must be guarded without destroying our industries or retarding our development.

We have added new luster to our arms and new glory to our flag, but an application of Democratic policies would tarnish the one and dim the other.

We have expanded our limits, advanced our jurisdiction and assumed new responsibilities, but Democratic ascendency at this time would mean abandonment, retreat and National humiliation.

This is not imagination, but serious fact. The record shows it.

# HARRISON'S ADMINISTRATION.

At the close of Benjamin Harrison's administration we were more prosperous than we had ever been before in all our history. We had never known such business activity, such universal employment, such diversity of occupation, such contentment, such widespread happiness, such National credit, or such international commerce.

We were better off than any other people on earth. We should have been satisfied, but we were not. We thought we could do better—and tried—and lost.

We were told that it would not make any difference whether the Republican or Democratic party held the offices; that prosperity did not depend upon National policies, but on natural conditions. We were quickly and painfully undeceived.

# CLEVELAND'S ADMINISTRATION.

The Democratic party came into power. Prosperity vanished and four years of disaster followed.

The soil was as rich, the sunshine was as warm, the rains were as abundant, the seasons were as regular and labor was as eager, but it was all in vain.

The Democratic party was at the helm. Free trade was in the saddle and capital went into hiding; the mills stopped, the mines closed, and idleness, want, suffering, tramps and riot spread over the land.

Commerce waned, the balances of trade turned against us, revenues declined, deficits occurred and multiplied until they amounted to hundreds of millions.

Issue after issue of Government bonds became necessary to meet Government obligations, and the National credit, now so high, became so impaired that a Democratic Secretary of the Treasury would not venture to offer a new issue of bonds for sale until he had organized a Wall street trust to guarantee a market.

Finally, as comes the light of day after a long, black night, came the year 1896, and brought with it another opportunity for the American people. What did the Democratic party then do? Did it acknowledge failure? Did it confess incompetency? Did it apologize for the ruin it had wrought? Did it beg pardon of the wage-workers whom it had turned into idleness by hundreds of thousands and upon whose families it had imposed hunger, want and misery by robbing them of millions?

Did it manifest regret for the grief and sorrow with which it had filled the land? Did it show penitence on any account? Did it offer to abandon its heresies, or any of them? Did it show signs of compunction or give any evidence of wisdom learned from experience?

No, not one of these things did it do, or for one moment think of doing.

# THE CAMPAIGN OF 1896.

On the contrary, it threw overboard its old leaders, nominated William J. Bryan, formed an alliance with the Populists, and, with free silver for a new issue, taking advantage of the bank-ruptcy and despair it had occasioned, with appeals to prejudice, sought to array class against class, labor against capital, the poor against the rich, that it might retain power.

It was not content to attack only the Republican party. It attacked everything and everybody. It embodied in its platform all the heresies of Populism, socialism, communism and anarchy. Property rights, vested interests, law, order—even the courts themselves—were assailed and placed in jeopardy. No such wild, reckless, destructive and dishonest program was ever before entered upon by any political organization.

The very life of the Republic was involved in the struggle, and conservative, patriotic men, including hundreds of thousands of Democrats, rallied to the support of William McKinley, and, by his election, saved the country, its honor and its institutions.

There is only one intelligent man in America who does not now see that the defeat of Bryan in 1896 saved us from an irretrievable disaster—and he edits *The Commoner*. Had we then added free silver to free trade, the most brilliant chapter in the economic history of this country would never have been written.

By a return to the policy of protection and by the preservation of the gold standard we brought prosperity to the Nation, exposed the fallacies of free trade and free silver and left the Democratic party without an issue.

# THE CAMPAIGN OF 1900.

Then came the Spanish-American War, with its new duties and new questions. Bankrupt Bryanism took a new lease on political life. Old issues were gone, but new ones were quickly made.

As usual, they involved an attack on the dignity and power of the National Government.

We were told that we had no power to hold and govern conquered territory except as a part of the United States; that the Constitution followed the flag, and wherever we raised the one we must at once apply the other, and that any other government was unconstitutional usurpation which the inhabitants might lawfully resist; that Aguinaldo was a Washington and McKinley a despot; that the Filipinos were patriots struggling for liberty, and that we were oppressors denying freedom and destroying with the sword; that our flag must come down and our army must come home.

Such were the contentions of 1900. Once more the people sat in judgment. Their verdict was the triumphant re-election of William McKinley and a total collapse of Democratic claims, pretensions and policies.

It seemed as though their day of woe had come. Their flag was in the dust; their columns were routed; their issues were gone; free trade was gone; free silver was gone; idleness was gone; discontent was gone; government by injunction was gone; imperialism was gone; and now, finally, even Aguinaldo is gone. He is no longer a Washington, but an apostate. He has taken the oath of allegiance, and has advised all his followers to do the same. Henceforth he is "impossible as" a Democratic leader.

When Aguinaldo "passed" only one hope remained, and that was the Supreme Court, but now, alas, that, too, is gone.

Under such circumstances any other party would dissolve and die, but not so with the Democratic party. Notwithstanding all, it still lives, as evil lives.

From November last until April it appeared to be in a state of becoming humility, occupied with retrospection, introspection and plans of reorganization.

For the first time in its history it seemed to have a realizing sense of its utter unfitness for public trust, and to be seriously concerned with plans to rid itself of Populism, communism and all the others isms that marked its departure from Jeffersonian patriotism and Americanism. This was a good work, but it was not completed, and never will be.

# THE APRIL ELECTIONS.

Some unexpected local successes at the April election induced the belief that reform was unnecessary; that on the contrary it might improve its chances of success to become worse instead of better. To do that was easier. It required no effort. The thought was an inspiration.

At once there was a marvelous change. Humility gave way to arrogance, and now again we hear the blare of horns, the rushing of feet and the shouting of Captains.

It is only June, but already, over and over again, in Democratic newspapers and Democratic imaginations, there has been a great Democratic victory in November.

What does it all mean? What has the Democratic party done that entitles it to a new hearing in the people's court? Has it turned a new leaf? Has it abjured free trade? Has it forsaken free silver? Has it cast out Populism? Has it followed Aguinaldo's advice and taken the oath of allegiance? Has it denied any article of its platform? Not one.

Its official declaration of principles remains identically the same bundle of un-American fallacies that the people condemned last year, and years before.

#### NEW QUESTIONS.

If it has done nothing, what, then, does it propose to do? Can any man tell? Does any Democrat know? Great questions concern us. How will it deal with them? What about a merchant marine, the Nicaragua Canal, Cuba, Porto Rico, the Philippines?

These are stupendous problems. They are worthy of the highest and best thought of the greatest men of America. They are of the highest dignity. They are pressing for solution. They can not be postponed or evaded. Our power as a Nation, our prosperity as a people, our good name, our honor, are all involved.

We can not afford to grope in the dark, or guess, or experiment, or halt, or hesitate about such matters.

If we are to send an additional number of Democrats to Congress how will they speak and vote on these questions?

Are the policies of McKinley to be continued or discontinued? Is our flag to come down or stay up? Where, my Democratic

friends, do you stand? We know where you stood last year, but where do you stand this year? What answer do we get?

We are told that although our election has direct reference to our representation in Congress, and to these great National and international questions, yet we are not concerned about them at this time; that the next election is to determine only whether three cent fares shall be charged on street railroads, and whether or not the field and opportunities of the political boss shall be enlarged by municipal ownership of public utilities, and whether or not in the name of single tax the farmers and other real estate owners and holders shall be compelled to bear all the burdens of taxation, while those who hold mortgages and stocks and bonds shall be made a privileged class, and be exempted from all the expenses of government.

These are not the questions we are now to settle.

They are brought forward only to divert attention from the real issues and because they appeal to the discontented, the disappointed, the visionary, the communistic and anarchistic classes.

The Democrats have made a great many serious mistakes, but they will scarcely commit the folly of adopting such doctrines. The wise, conservative and patriotic men of that party are protesting against such a course, and their voice will most likely be heeded.

But what then? The party will have recoiled from a precipice, only to fall back upon itself. And what is that? "The leopard can not change his spots;" neither can the tiger. The controlling spirit of Democracy means this year just what it meant last year. We could not indorse it then; neither can we indorse it now. If we would continue our prosperity we must uphold the policies that gave it to us. If we would maintain our National credit, and preserve our financial honor, we must keep out of power the party that destroyed the one and threatened the other. This is no time to dally with free trade, revive free silver or pet Populism.

# DISFRANCHISEMENT OF COLORED VOTERS.

Neither is it a time to show indifference to the wrong the Democratic party is committing today in the Southern States against the black man, whom it is robbing of his suffrage under the forms of constitutional amendments and legal enactments that are in violation of the Constitution of the United States. This is worse, if possible, than the inhuman lynchings of which we read almost daily, because it is without provocation, and is a blow aimed both at a class and the government of a Nation.

Constituted authority must find a way to suppress these wrongs, or the Government will deserve to lose the support of a race that has shed its blood for our flag in every war, and upon almost every field where it has waved. Brave, heroic, gallant men were they who, side by side with their white comrades, have borne our flag to victory in all our wars. They helped us to conquer our independence, to form our Union, to preserve our National life, to carry liberty and freedom to Cuba, and to plant our banner in victory on the islands of the seas. They are entitled to the protection of the Government for which they so bravely fought. It is an inexpressible shame that such protection is denied. As they have shared our labors and perils, so must they share our rewards. In what way their rights will better be secured is an unsolved problem, but until they are fully protected, and Democratic persecutions and denials of constitutional rights have ceased, there should not be any restoration of the Democratic party to power.

#### EXPANSION.

But there are other questions of the highest importance. We are beset with new and untried difficulties. We have had a war. We have changed the map of the world. We have acquired new territory, and with it have come to us new duties and new responsibilities. We have assumed them, and must faithfully discharge them or stand discredited before the nations.

The Republican party has an intelligent policy on this subject. It has been proclaimed to the world. We have acted upon it. We have legislated to carry it into effect. We are executing it with successful and triumphant results. It should have universal support, but instead it has fierce opposition. It was attacked last year as unconstitutional. The Supreme Court has answered that assault, and now they are attacking the Supreme Court.

#### THE SUPREME COURT.

Mr. Bryan declares that its decision in the Porto Rican cases is as infamous as the decision in the Dred Scott case, and calls upon Democrats everywhere to rally for its overthrow.

Senator Tillman denounces it as damnable, and says that we are to have a battle to the death before it is finally accepted. Other Democrats, great and small, say it means the end of the Republic; that McKinley is Emperor; that our liberties are lost, and all join in declaring that the next great political contest will be as to whether this decision shall stand. If they see fit to make such an issue we can afford it. It will be the President, the Congress and the Supreme Court—all the departments of the Government—on one side and the Democratic party and its allies on the other.

It will not be the first time we have had such an alignment of forces, and, as always heretofore, patriotism and Americanism will triumph.

#### PORTO RICO.

When we came to legislate for Porto Rico we found there 1,000,000 people, more than 500,000 of whom did not own one dollar's worth of any kind of property, and more than 800,000 of whom could not either read or write in any language. None of them knew anything about our institutions, our laws, our judicial system, or anything else connected with the practical administration of free popular government.

They had no system of property taxation, no school system, and scarcely any kind of social order or organization. They had been wasted by war and devastated by hurricane. They were helpless as children. From the first moment of our occupation it was necessary to feed and support them by tens of thousands to prevent starvation.

If the Constitution and all the laws of the United States, not locally inapplicable, had followed the flag and gone into force and effect there as soon as it was raised, as the Democratic party contended, it would have been impossible to have relieved their distress or to have established a successful government of any kind. Instead of peace, order and progress, which we have in that island today, we would have had universal chaos and universal failure.

Such a theory would have required all tariff duties on imports into Porto Rico from foreign countries to be collected and paid into the Treasury of the United States at Washington, not for the benefit of the people of that island, but for the common benefit of the whole people of the United States.

It would have required the imposition of our heavy internal revenue taxes without ability on their part to pay, or on our part to collect.

It would have required the immediate substitution of our laws for theirs, and their faithful observance of them before they had opportunity to know or to learn what they were.

It would have required the immediate introduction of our codes of procedure in civil and criminal cases without even the Judges on the bench, or the lawyers at the bar, knowing how to put them into operation.

To have adopted such a construction of our Constitution would have made the Filipinos and the Porto Ricans, most of whom are wholly unprepared to govern themselves, citizens of the United States, with full power to participate with all other citizens in governing us. There is no end to the difficulties and the absurd consequences that would have ensued.

Such a construction of that instrument would have been a libel on George Washington, and his illustrious associates who framed it. To hold that it so restricted our power would be to deny us an essential attribute of sovereignty, and make us inferior in the family of nations. It would have made us incapable of protecting our rapidly increasing commercial interests in distant parts of the earth. It would have been not only the end of expansion, but also a denial of the power necessary to the control of the Caribbean Sea, and the approaches and natural defenses of an isthmian canal. It would have been worse than a mistake. It would have been a stupid crime against the progress and development of our country.

We rejected all such belittling and un-American views, and proceeded on the theory that our Government has all the power of the most powerful; that we are rightfully at the head of the nations in sovereign power as we are in physical and political power; that our constitution is the constitution of the United States of America, but not the constitution, also, until Congress so provides, of the territories and possessions belonging thereto, no matter where situ-

ated or how inhabited. We think the Constitution means what it says when it provides that "the Congress shall make all needful rules and regulations respecting territory or other property belonging to the United States."

When we read in the Constitution about the United States, and then also about territory that simply "belongs" to the United States, we think it clear that our fathers contemplated that territory might come under our jurisdiction and into our possession without becoming a part of the United States, and that territory that simply "belongs" to us is to be governed under the clause referred to, as Congress may prescribe, and that it is the duty of Congress, in so governing, to meet the necessities of the inhabitants of such territory and promote their welfare.

It was for this reason that in legislating for Porto Rico we provided that our internal revenue laws should not be applied there, and that all tariff duties that might be collected should be paid into the treasury of Porto Rico, for the support of its government, instead of being paid into the National Treasury, as has been done in every instance heretofore. All we have done in Porto Rico has been authorized by the Constitution, and has been done, not to oppress the people of that island, but to generously and magnanimously relieve them from burdens they were unable to bear, and thus aid and encourage them in an effort to establish industries, develop agriculture, make needful public improvements, inaugurate systems of education, and lead on, by gradual and safe approaches, to order, prosperity and the assimilation of American ideas and American institutions.

As a result they have more prosperity, more contentment, more happiness, more schools and more promise for the future in Porto Rico today than they have had in that island at any time before during the last 200 years.

Since our legislation took effect productions have increased, business has multiplied, the demand for labor has grown, wages have advanced, schools are rapidly increasing, and the hearts of the people have been warmed with affection toward our flag and gladdened with visions and hopes heretofore unknown.

Although our laws provided for the collection of duties on certain articles of commerce between Porto Rico and the United States until March 1, 1902, our success has been so complete that

already a special session of the Legislature of Porto Rico has been called to meet on July 4 to pass a resolution declaring the collection of such revenue no longer necessary, and thus make it the duty of the President to issue his proclamation giving Porto Rico absolute free trade with the United States.

What the Supreme Court decided was that all this was within the power of Congress, and that it must be upheld and enforced.

That decision will never be reversed. Men may denounce it and rave about it, but, as the years go by, its wisdom, beneficence and sound judgment will stand out more and more conspicuously.

#### THE PHILIPPINES.

It has come at an opportune moment. The great work of the hour is the establishment of a stable and successful government in the Philippines. Had the Democratic view prevailed this would have been impossible. The way is now clear and well defined. We can go forward intelligently.

This is not a mere political matter. It is also a practical business question, affecting all classes of the American people, and no class more directly than our wage-workers. We have reached a point in our industrial development where we produce more than we consume. We must find markets for the surplus or quit producing it. We can not restrict without cutting down the pay-roll. That is one thing the Republican party never shortens, but always lengthens.

We can get partial relief by tariff revision and reciprocity treaties with European and South American countries, but measured by the possibilities of future increase and delevopment, the greatest markets of the world are in the Far East. We want our fair share of them, and intend to have it, and the way to secure it is not to haul down the flag and run away, but to remain and hold on to the position, the prestige, the advantage and the opportunities that we now enjoy.

When men talk about overthrowing the Supreme Court decisions in the Porto Rican cases they are striking also at the Philippines and are raising issues that not only affect the vital character of our Government, but also affect the wages of every man in the United States who eats his bread in the sweat of his face.

#### THE DEMOCRATIC RECORD.

It seems surprising that any party could take such a position, and yet it is just like the Democratic party to do so, for during the last fifty years it has never conceded to the general Government any disputed power, nor struck one lick for labor.

It denied the power to preserve the Union. It denied the power to abolish slavery; it denied the power of reconstruction; it denied the power to protect our industries; it denied the power to establish the gold standard, and now it denies the power to hold possessions, and govern them according to common sense, although the constitution itself expressly so provides.

And as to labor, although constantly posing as its friend and champion, it has been at all times its inveterate enemy.

It was the enemy of labor when it upheld slavery, by which all labor was disgraced and degraded. It was the enemy of labor through all the years of its opposition to a protective tariff by which we saved the labor of this country from competition with the underpaid labor of Europe. It is the enemy of labor now in its contention that we have no power to protect the wage workers of America from the cheap labor of our possessions in the tropics and the Orient; and yet we hear, year after year, Democratic appeals for the electoral support of the wage workers of our State and country, based on the assumption that the Democratic party is the special friend and guardian of all who toil.

# AMERICAN WAGE WORKERS.

The laboring men of this country are men of brains, of intelligence, of judgment, of keen memory and of good associations, and, therefore, they have denied these appeals; they will deny them again, for they know that if Democratic ideas prevail prosperity will vanish and the pride and glory of the hour will turn to shame and humiliation.

#### MCKINLEY.

Whatever else we may be, let us be Americans, and be worthy of the events with which we are associted. This is a great history-making epoch. Except only Washington and Lincoln, no President has had such opportunities as have fallen to McKinley.

Not one has escaped him. All have been improved to the honor and glory of the Republic. No emergency has arisen that he has not triumphantly met, and no duty of war, peace or diplomacy has been so delicate or so difficult that he has not performed it grandly and successfully. All his achievements are the Nation's. His fame is ours. It fills the earth. All races honor and applaud him. The single note of discord is here, at home, among ourselves and under our own flag. It misrepresents the American people. It misrepresents the people of Ohio. Their verdict in November will so declare.

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#### THE PRESIDENT.

Much has been said in Democratic newspapers about the relations existing between Senator Foraker and President McKinley. A zealous effort has been made to cause it to appear that they are not on terms of friendship and that there is lack of harmony of purpose. The record conclusively refutes all such statements. Senator Foraker has most earnestly and vigorously supported the administration of President McKinley. Through all his speeches in the Senate, and out of the Senate, praise and credit have always been most freely and generously given. In a speech delivered at Wooster, Ohio, October 5, 1898, Senator Foraker paid the following tribute to the wisdom of President McKinley:

President McKinley has justified the most sanguine of his most ardent friends. Great responsibilities and high duties have fallen to his lot. He has met every demand and has triumphed over every difficulty. He enjoys the admiration as well as the confidence, not only of the whole country, but of the world. His administration will live in history with those of Lincoln and Grant.

In the Senate of the United States, April 30, 1900, the following high commendation of the eminent work of the President in diplomacy was splendidly stated as follows:

Many great deeds of both war and peace stand to the credit of the Administration of Wm. McKinley, but there are few, if any, greater in far-reaching good to the American people than has been accomplished by the diplomacy that has secured for us the open door to the markets of China. Through his wisdom, foresight, and statesmanship it is now assured that we are to have an even chance for our full share of that great commerce, and that is all we ask in respect to it.

But the most conclusive evidence of the character of their relations and of the President's appreciation of the friendship and ability of Senator Foraker was given by his selection of him to place him in nomination for the Presidency both at the St. Louis and the Philadelphia Conventions. The following is the speech of Senator Foraker at Philadelphia as published in one of the newspapers at the time of its delivery. It speaks for itself:

# Masterful Oratory.

# Foraker's Review of McKinley's Administration, Renominating Him, Extremely Brilliant.

Mr. Chairman and Gentlemen of the Convention: Alabama yields to Ohio and I thank Alabama for that accommodation. Alabama has so yielded, however, by reason of a fact that would seem in an important sense to make the duty that has been assigned to me superfluous, for Alabama has yielded because our candidate for the presidency has in fact been already nominated. (Applause.) He was nominated by the distinguished senator from Colorado when he assumed the duties of temporary chairman. nominated again yesterday by the distinguished senator from Massachusetts when he took the office of permanent chairman; and he was nominated for a third time when the senator from Indiana yesterday read us the platform. (Applause.) And not only has he been thus nominated by this convention but he has also been nominated by the whole American people. (Applause.) From one end of this land to the other in every mind only one and the same man is thought of for the honor which we are now about to confer and that man is the first choice of every other man who wishes Republican success next November. (Applause.)

On this account it is not necessary for me or any one else to speak for him here or elsewhere. He has already spoken for himself; and to all the world. He has a record replete with brilliant achievements. (Applause.) A record that speaks at once both his performances and his highest eulogy. It comprehends both peace and war and constitutes the most striking illustration possible of triumphant and inspiring fidelity and success in the discharge of public duty.

Four years ago the American people confided to him their highest and most sacred trust. Behold with what results. He found the industries of this country paralyzed and prostrated and has quickened them with new life that has brought to the American people a prosperity unprecedented in all their history. He found the labor of this country everywhere idle; he has given it everywhere employment. He found it everywhere in despair; he has made it everywhere prosperous and buoyant with hope. He found the mills and shops and factories and mines everywhere closed; they are now everywhere open.

And while we here deliberate, they are sending their surplus products in commercial conquest to the very ends of the earth. Under his wise guidance our financial standard has been firmly planted high above and beyond assault, and the wild cry of 16 to 1 so full of terror in 1896, has been put to everlasting sleep alongside the lost cause and other cherished Democratic heresies in the catacombs of American politics. With a diplomacy never excelled, and rarely equaled, he has overcome what at times seemed to be unsurmountable difficulties and has not only opened to us the door of China, but he has advanced our interests in every land.

Mr. Chairman, we are not surprised by this, for we anticipated it all. When we nominated him at St. Louis four years ago we knew he was wise, we knew he was brave, we knew he was patient, we knew he would be faithful and devoted, and we knew that the greatest possible triumphs of peace would be his; but we then little knew that he would be called upon to encounter also the trials of war.

That unusual emergency came. It came unexpectedly—as wars generally come. It came in spite of all he could honorably do to avert it. It came to find the country unprepared for it, but it found him equal to all its extraordinary requirements. (Applause.) It is no exaggeration to say that in all American history there is no chapter more brilliant than that which chronicles, with him as our commander-in-chief, our victories on land and sea. (Applause.) In one hundred days we drove Spain from the Western hemisphere, girdled the earth with our acquisitions, and filled the world with the splendor of our power. (Applause.)

The American name has a new and greater significance now. Our flag has a new glory. It not only symbolizes human liberty and political equality at home, but it means freedom and independence for the long-suffering patriots of Cuba, and complete protection, education, enlightenment, a general uplifting and ulti-

mate local self-government and the enjoyment of all the blessings of liberty to the millions of Porto Rico and the Philippines. What we have so gloriously done for ourselves we propose most generously to do for them. (Applause.) We have so declared in the platform that we have here adopted.

A fitting place it is for this party to make such declaration; here in this magnificent city of Philadelphia, where the evidences so abound of the rich blessings the Republican party has brought to the American people; here at the birthplace of the nation where our own declaration of independence was adopted and our Constitution was formed; where Washington and Jefferson and Hancock and John Adams and their illustrious associates wrought their immortal work; here, where center so many historic memories that stir the blood and flush the cheek and excite the sentiments of human liberty and patriotism, is, indeed a most fitting place for the party of Lincoln and Grant and Garfield and Blaine (Applause); the party of union and liberty for all men, to formally dedicate themselves to this great duty. We are now in the midst of its discharge. We could not turn back if we would and we would not if we could. We are on trial before the world and must triumphantly meet our responsibilities, or ignominiously fail in the presence of mankind. These responsibilities speak to this convention here and now and command us that we choose to be our candidate and the next President-which is one and the same thing-the best fitted man for the discharge of this great duty in all the republic. (Applause.)

#### STAINLESS CHARACTER.

On that point there is no difference of opinion. No man in all the nation is so well qualified for this trust as the great leader under whom the work has been so far conducted. He has the head, he has the heart, he has the special knowledge and the special experience that qualify him beyond all others. And Mr. Chairman, he also has the stainless reputation and character and has led the blameless life that endear him to his countrymen and give to him the confidence, the respect, the admiration, the love and the affection of the whole American people. (Applause.) He is an ideal man, representing the highest type of American citizenship, an ideal candidate and an ideal President. With our banner in his hands, it will be carried to triumphant victory in November. (Applause.)

In the name of all these considerations, not alone on behalf of his beloved state of Ohio, but on behalf of every state and territory here represented and in the name of all Republicans, everywhere throughout our jurisdiction, I nominate to be our next candidate for the Presidency, William McKinley." (Applause.)

"Senator Foraker was repeatedly interrupted by cheers during his oration and at the finish, when he mentioned McKinley's name as the Republican choice for the Presidency it seemed as though bedlam had been let loose. The delegates and visitors rose enmasse and for 15 minutes the cheering, waving of plumes and flags, the flinging of hats in the air, the waving of canes, banners, coats, handkerchiefs and other articles of wear continued."

Quotation might follow quotation were it necessary or appropriate. It is neither. Reference has been made to this only in due respect to the President and the Senator.

The Republicans of Ohio appreciate Senator Foraker because of his great ability. They believe in his wisdom as a guiding power in the complex problems of statecraft. He has carved an imperishable fame for himself and the great commonwealth which he represents and has made his place secure as a friend of humanity, a supporter of freedom's progress and an eloquent champion of the advancement and enlightenment of the human race. He formulated into law the solution of the Porto Rico problem, in harmony with the genius of American institutions and the Constitution. That law, known as the Foraker law, stands a living monument to his wisdom and statesmanship. If there were nothing more that would be enough to give him a high place.

But as we have shown Porto Rico is but one chapter. There are many—and all show work and ability. He has fought and won his remarkable successes in the law and in statemanship, by his talent, genius and untiring labor, rather than by adventitious circumstances. His exalted excellence of mind and ideality, his versatility and talent, his personality, and invincible nature, coupled with ardent patriotism and unceasing toil and devotion to duty have been the secrets of his success. It rests with the people of Ohio to say whether this statesman shall continue to serve them in the high offices he has so worthily filled.

Tributes to

# Ulm. Mckinley

....Jay....

F. B. Joraker.







# Tributes to

# William McKinley

By

ff. 18. Joraker.

Newspaper reports of speeches delivered at the State and National Conventions, together with a Memorial Address delivered at Music Hall, Cincinnati, on the day of the President's funeral.

CINCINNATI, 1901.

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STORESON THEORIES

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SPEECH NOMINATING WM.
McKINLEY FOR GOVERNOR,
DELIVERED BEFORE REPUBLICAN STATE CONVENTION AT COLUMBUS, O., JUNE
18, 1891.

Mr. Chairman and Gentlemen of the Convention:—Under this call I have a duty to perform, and it is one of the most pleasing character. I desire to enter upon its performance by reminding you, as it has already been called to your attention, that we are here organizing for another contest. And as it has already been said to you, this contest upon which we are to-day entering, is to be, in some respects at least, of unusual character. In the first place, while it is to be hoped that we are not to be called upon to confront a greater number of enemies in the aggregate, yet already is it known that we are to be compelled to contend against a greater variety than ever before. (Applause.)

In the first place, we must fight that ancient, time-honored enemy, the Democratic Party, which, it appears, no kind of defeat can kill. (Laughter and cheers.) And in the next place, as allies, nobody yet knows how many third parties. We do know, however, that the political shibboleth of each and every one of these political organizations will be "anything to beat the Republican Party." Hence it is that we are conscious that when we go out from this convention hall, it will be to contend against the combined opposition of all these parties, and that it will be necessary for us to defend ourselves from every sort of crafty and insidious effort that can possibly be made to divide and weaken and sap our strength.

This contest will be unusual in this further particular: it will be of extraordinary importance. It involves, in the first place, the political control of this great State of Ohio, and that was never quite so important as it is at the present time. We thought we had had bad experiences

## WILLIAM McKINLEY.

with the Bishop and the Hoadly administration, but they appear now, by contrast, as pleasing benedictions. (Cheers.)

# TO INVOLVE MORE.

This contest is to involve more still—more than Governorship, more than the General Assembly, more than the public institutions. It reaches out into national politics. A United States Senatorship will depend upon its result; and, more important still than all these, it will determine whether this great State of Ohio is to go into the next national contest, that of 1892, at the head of the Republican or at the head of the Democratic column.

All this is intensified when we remember the election of last year, or, rather, the defeat of last year.

We shall win this fight. (Cheers.) But, gentlemen of the convention, it is our duty as well as our pleasure not to be content with simply winning it. We must win it triumphantly, decisively, overwhelmingly. (Applause.) To that end we must select for our standard-bearer that man who, above all others, can most surely command our undivided strength. We must have for our leader a fit representative of our views, with respect to every living issue, and one who in his record and his personality is the best type we have of the illustrious achievements and the moral grandeur of Republicanism. (Applause.)

He must be more than that. He must have a sure place in the confidence and in the affections of the Republicans of Ohio. He must be able, because of their esteem for him, to command not simply their unfaltering, but their enthusiastic support. Give us such a leader and the battle is easily fought and gloriously won. (Cheers.)

Such a leader we have. It is not my privilege to point him out; it is no man's privilege to point him out. That has already been done. By common consent all eyes have turned in the same direction. One man there is who, measured by the exigencies of this occasion, stands a tall head and shoulders above all his comrades, and that man is Wiltiam McKinley, Jr. (Tremendous applause and cheering.)

fliere are many reasons why he should be nominated. I can take

time to mention only a few of them. In the first place, everybody knows him. He does not need any introduction anywhere. (Applause.) Every Republican in Ohio not only knows him, but, what is better, every Republican in Ohio loves him. (Cheers.) And that is not all. Every Democrat in Ohio knows him (applause), and every Democrat in Ohio fears him. (Applause.) His name is a household word throughout the nation, and throughout the whole world, wheresoever civilization extends, it is familiarly spoken. (Great cheering.) It is no exaggeration to say that never in the history of our State has any man been nominated for the Governorship by either party who at the time of his nomination was such a distinctively national and international character. (Applause.)

#### IS TRUE AND TRIED.

In the second place, he is true and tried. (Applause.) He is not an experiment. He has been a long time in the public service. He commenced thirty years ago. He started in with Abraham Lincoln. (Cheers and applause.) He commenced on the 11th day of June, 1861. He began by enlisting as a private soldier in the 23rd Ohio Regiment, and as he was one of the first of Ohio's sons to respond to his country's call, so, too, was he one of the last of Ohio's sons to quit his country's service. (Tremendous applause.) Not until the last shot had been fired; not until the last armed rebel had surrendered did he put off his uniform, and resume the pursuits of peace. In nineteen of the bloodiest battles of the war he bared his breast to the storm, and periled his young life that this nation might live. (Applause.) At Carnifex Ferry, at South Mountain, at Antietam, at Fisher's Hill, at Cedar's Creek, at Winchester, and I don't know how many other great battles, he was foremost in the thickest of the fight. (Applause.) And there, by gallantry, and heroism, he won promotion after promotion, until at the close of the struggle the beardless youth, unknown and without influence when he enlisted, had risen to the high and responsible rank of Major of his regiment. (Applause.)

So brave, so heroic, so gallant, so brilliant, were his soldier services, that there lives not one human being in whose veins there is a single drop

of loyal Republican blood, who can either forget him or fail to support him with his ballot on election day. (Great applause.)

In the third place, he has been as great and as successful in civil as he was in military life. He has been a gladiator in the political combats of the country as he was a hero on the battle-fields of the Republic. (Applause). From the day he first entered Congress until the day he left he constantly gained in both position and influence, until at the close of his service he stood, not simply nominally, but actually at the head of the Republican party in the House of Representatives. (Applause.)

And it is no disparagement to any of the great men who so conspicuously preceded him to say that we have never had, in all the history of the Republican party, a more accomplished, a more successful or a more masterful leader than he. (Renewed applause.)

And so it is, my fellow-citizens, that William McKinley, Jr., has been identified, in both field and forum, with every great measure of the Republican party. Since that day, when he enlisted as a private soldier, a great deal of glorious history has been written. He has had a hand in the writing of every page of it. No man, therefore, is better equipped and qualified than he, by experience, to discuss the great national questions that will be involved in the campaign upon which we are entering. And when it comes to that one great national question, the tariff, the question that will, by reason of his candidacy, rise higher than any other, probably, it must be conceded and is conceded by all, that he is the absolute master of the subject. (Applause.)

# PROTECTION'S CHAMPION.

Protection to American industries, to American labor, to the American farm, to the American wage-worker, the making of our own American tin (cheering), in short, the protection of our industries against the industries and the interests of every other nation on the face of the earth, is with Major McKinley a patriotic conviction. With all the earnestness of his great soul he believes in it, and with all the eloquence of his matchless oratory he is prepared to present the claims of this great doctrine to the American people, and to defend it as no other man can, from the attacks of its enemies. (Applause.)

And then my fellow Republicans, there is another reason why he should be nominated. While taking care of National issues, he has the versatality, the force, and the power to take care of State issues as well. (Applause.) What a glorious feast there is for him in that. (Laughter.) We are all going to help him in that. This is hardly the time to start in, but we will be at it in due time, and Mr. Campbell need not be afraid as to that. (Applause.) It will be, however, to Major McKinley but a pleasing pasttime, a sort of restful recreation, to dissect and expose the hypocrisy, the extravagance, the corruption, the disgrace, the mortification and humiliation to the people of Ohio of the present State Administration.

There is another reason to which I want to call attention-and I want to do this especially before this Convention and the Republicans everywhere in this great State—one other reason why Major McKinley should have this nomination to-day. He has ever, under all circumstances, in every campaign in your time, and mine, since he first took the field for Republicanism, been a faithful and an unfaltering supporter of the Republican party and its candidates. (Great applause.) I want to say here to-day for the benefit of the Republican party, and say it more especially than anything else that I do say, that no Republican candidate has ever suffered defeat through fault of his. (Great cheering.) There is not one single drop of cut-throat blood in his veins. (Applause.) He is morally incapable of the treachery and cowardice of political assassination. (Applause.) He doesn't know what a political razor is (applause), and has only scorn and contempt for the sneaking, hypocritical scoundrel who would use one. (Applause.) Nominate him, therefore, and every Republican in Ohio can press the collar as we march on to victory under his leadership. Nominate him, and you fulfill the expectations of Ohio, and meet that which this wonderful demonstration signifies.

#### WHAT IT SIGNIFIED.

What does it signify? Republicans of Ohio, congratulate yourselves upon the meaning of this tremendous outpouring. It means that the 500,000 Republican voters of Ohio have "got together." (Cheering.) It means that the 500,000 Republican voters of Ohio are proud of their

party, proud of its principles, proud of its past, proud of its promises, and proud of its representatives in official places in the State and Nation. (Applause.) It means that we are in good humor with everybody. (Applause.) We are proud of the wise, conservative and patriotic man, Benjamin Harrison, who sits in the White House. (Great applause and cheering.) We are proud, too, of that great brilliant, magnetic statesman, who has laid down the law to Europe with respect to America, James G. Blaine. (Renewed cheers and applause.) We are proud also of the representation of Ohio in the Cabinet of the President of the United States in the person of our own Charles Foster. (Applause.) And we are proud, too, of our great Senator, who has served his State with such distinction that he justly enjoys the reputation of standing at the head of all the great men in the greatest legislative body on earth. (Applause.) We are proud, to make a long story short, and to make sure that nobody will be forgotten (laughter) of everybody from grandfather's hat to baby Mc-Kee. (Laughter and cheers.)

What, now, does that mean? We can answer in a word, in a sentence: "The Campbells must go." (Applause.) As it was with Allen and Bishop and Hoadly, so, too, must it be with their Democratic successors—one term is enough. (Applause.) That is all we can tolerate, and this uprising of the people has that meaning for those who occupy the State House under the Democratic banner to-day. (Applause.)

My fellow Republicans, it was my fortune to be in Chattanooga a few days ago, and while I was looking about over the battlefields and the historic heights in that vicinity, the thought occurred to me, and I had occasion to remark it there, but it will bear repetition here, that the military situation at that point, in 1863, was somewhat similar to the political situation in this country at this time. You will remember that in September, 1863, the battle of Chickamauga was fought. We got the worst of it. We were whipped—not whipped, but exhausted (laughter), and were compelled to fall back to rest. We moved back into our entrenchments about Chattanooga. The victorious rebels followed us up and took possession of Lookout Mountain and Mission Ridge, and from their crests

looked down upon us with longing, expectation and hope, day after day, that they would see us move out and let them come in. But we had done all the moving we had intended to do. We had no thought of abandonment—defeat had only put us on our mettle. So at once, instead of planning a retreat, we sent for reinforcements, and under the magnificent leadership of such great generals as Ulysses S. Grant (applause), William Tecumseh Sherman (applause), Philip H. Sheridan (applause), George H. Thomas (applause), and Jos. Hooker (applause), we reorganized our army, and made ready to resume the offensive, and one morning, in November, when our enemies were looking down, hoping that day might be our last, the whole great army moved out to give them battle. (Applause.) We took position in front of their intrenchments. Hooker opened the fight on the right, and we of the left and center stood and looked on, and encouraged with our cheering plaudits, while his brave boys fought their way up the rugged mountain sides, until above the clouds, on the topmost peak, they planted in triumph the starry flag of the Union. (Applause.)

### THE ENEMY WENT DOWN.

It was a glorious day's work. It inspirited the whole army and prepared it for the greater work and greater triumph of the next day. On the morrow all columns, all guns, all flags pointed against Bragg and the Rebel Army on the crests of Mission Ridge, and there, before the sun went down, before the resistless columns of the Union, his lines were broken, and he and his men were swept like chaff before the winds back into the mountain fastnesses of Northern Georgia. (Applause.)

So, too, with respect to this political situation have we had a Chick-amauga. We had it last year, when, save only here in Ohio, which stood like Thomas at Chickamauga as a veritable rock of Gibraltar (applause), we suffered defeat all along the line. We had to fall back into our entrenchments. The victorious Democracy following up their advantages, at once climbed into the political high places of the country, and ever since have been looking down with longing and expectant looks upon Washington and other sections of the promised land. (Laughter and applause.) They have been busying themselves only with plans of future

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occupation. But as it was at Chattanooga with the Union forces in 1863, so too has it been with Republican forces of this country in 1890 and '91. Defeat only nerved us for a greater effort. Under the leadership of such mighty generals in politics as Harrison, and Blaine, and Reed, and Sherman, and McKinley, and Foster, we have been reorganizing. (Applause.) Instead of abandoning we have been preparing to resume the offensive, and to-day this mighty column is moving out as did our predecessors in Chattanooga in 1863 and forming the line of battle. (Applause.)

Ohio is the Lookout Mountain of the political battlefield on which we stand (applause), and William McKinley, Jr., is the Joe Hooker of the Republican party (great applause), and we are the boys (applause) who intend to follow him up its steep and rugged mountain side and help him plant the flag of Republicanism in triumph there. (Cheers.) And next year, inspirited by this glorious achievement, all the columns from Maine to Oregon will be turned against the enemy, and as to them it will be as it was with Bragg in 1863. (Cheers.) Their lines will be broken, and before the resistless onslaught they will be swept back into the depths of defeat and despair. (Applause.)

My fellow Republicans, it is for such glorious victories—glorious for Ohio, glorious for the Nation, and glorious for the Republican party, glorious for every true American interest—that we are here to-day to prepare.

Let us go forward and win these victories as we should. (Applause.) Moved by such considerations as these, I move you, Mr. Chairman, that the rules of this convention be suspended, and that, by acclamation, we nominate to be our candidate for Governor that brilliant statesman, soldier and orator, William McKinley, Jr. (Tremendous applause and cheering.)—Reprinted from Cincinnati Commercial-Gazette.

SPEECH ENDORSING WM. McKINLEY FOR THE PRESIDENCY, MADE AS TEMPORARY CHAIRMAN OF THE REPUBLICAN STATE CONVENTION, AT COLUMBUS, O., MARCH 10, 1896.

# Mr. Chairman and Gentlemen of the Convention:

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I sincerely thank the State Central Committee for the honor of temporarily presiding over this Convention, and I most heartily thank you, gentlemen of the Convention, for your kind and enthusiastic greeting. Be assured of my proper appreciation. Ordinarily, as I understand it, it is thought to be the chief duty and office of the temporary chairman of a convention like this to discuss current political questions and define party positions. Ordinarily I should make that kind of an address on such an occasion as this. It is possible that you are expecting some such remarks as those. If so, you will be disappointed, for in my judgment, that kind of an address is not necessary under the circumstances attending us here to-day.

It is not necessary, because everybody knows that no matter what questions may be discussed in the coming campaign, the one great, towering, supreme issue in the contest of '96 will be whether for the next four years this country shall be ruled by Democrats or by Republicans. (Cheering.)

And everybody knows in advance what the verdict will be. Even our Democratic friends understand and can see that the sweeping victories of last year are to be followed by still greater and grander triumphs this year. (Cheering and applause.) The Republican party was never so strong, never so powerful, never so popular, never so intrenched in the hearts and affections of the people as it is to-day; and so far, at least as far as Ohio is concerned, never so united or harmonious as at this very hour. (Loud applause.)

We have no differences of opinion with respect to National questions or policies, and we have no factional dissentions to weaken our strength or divert our attention from the common enemy. (Cheers.) Therefore it is, that while we are here for the purpose of nominating a ticket and declaring anew the faith that is in us, we come also to the discharge of a higher and more commanding duty. It has already been indicated by our chairman. (Cheers.)

#### HERE TO REDEEM IT.

The Zanesville Convention declared that the Republicans of Ohio would unitedly and enthusiastically support the candidacy of Governor McKintey. (Applause.) The time has come to redeem that pledge, and we are here to redeem it. (Cheers and applause.) In every district and county convention so far held this year in this State, he has already been endorsed. We assemble now as the representatives of the Republicans of the whole State for the purpose of doing the same thing. We owe it to ourselves as well as to him to do it with spirit, to do it with earnestness, to do it with unanimity, to do it in such a manner, in short, as will signify to the whole Nation that he has now and will have at the St. Louis Convention, the united, hearty, cordial, enthusiastic, unqualified support of Ohio. (Long continued applause.)

It is due, however, to the Republicans of Ohio, and especially to Governor McKinley himself, that it should be said, here and now, that our preference for him is not conceived in any spirit of antagonism or hostility to any other man whose name is mentioned in connection with that high honor. The Republicans of Ohio do not lack appreciation for Thos. B. Reed, or Levi P. Morton, or William B. Allison, or Matthew Stanley Quay, or any other great leader who has been mentioned in connection with that great honor. On the contrary, we admire and love them all, and if the St. Louis Convention should disappoint us and give its honor to one of them, we here and now pledge to him in advance the electoral vote of Ohio by the largest majority ever given in the history of the State. It is not that we "love Caesar less, but Rome more." (Loud applause.)

William McKinley is our own. (Cheers.) He lives here in Ohio, and

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always has lived here in our midst. He is our friend, our neighbor, our fellow citizen, our fellow Republican. (Applause.) Shoulder to shoulder with him we have been fighting the battles of Republicanism in this State for a generation. (Cheers.) We know him and he knows us. (Cheers.) We know his life, his character, his public services and his fitness for the place for which he has been named. (Cheers.) He has been our soldier comrade, our Representative in Congress, our Governor. By all these tokens we here to-day present him to the Republicans of the other States of the Union as our choice, and ask them to make him theirs. (Long continued cheering.)

In this connection it should be remembered that he is identified with all that is good and great and grand and glorious in the history of Republicanism. When but a mere boy, answering his country's call, he shouldered his musket and marched away after the flag to the music of the Union to make a record for gallantry and heroism at the front on the battlefields of the Republic. (Cheers.) Returning and entering Congress, he was soon there distinguished for his eloquence of speech, fidelity to duty, his wise and conservative judgment, and his ever patriotic and conscientious regard for the rights of the people.

### IN CONGRESS.

The year 1890 found him at the head of the Ways and Means Committee and leader of the House. In that position it fell to his lot to frame and secure the enactment of the McKinley law. That measure has made his name familiar in all the world and has made him exceedingly unpopular in almost all the world outside of the United States. (Cheers and laughter.) But it has correspondingly endeared him to his countrymen. Time has vindicated his labor. (Cheers.) The last three years have been years of trial. They have been years of Democratic rule; they have been years of education for the American people in the school of practical experience. As a result, the American people know a great deal more about the tariff now than they did in 1892.

Every business man has found out that no matter what kind of business he may be engaged in, the tariff has a close, direct relation to him;

## WILLIAM McKINLEY.

and the wage-worker has learned that his prosperity depends on the maintenance of a protective tariff policy. As a result, in every section, in every State, in every county, in every municipality, in every mill and mine and furnace, forge and workshop, everywhere throughout all this broad land where capital is invested or labor is employed, William Mc-Kinley is the ideal American statesman, the typical American leader and the veritable American idol. (Loud cheering.)

No man ever in public life in this country enjoyed such universal popularity as is his. (Applause.) No man in this country in public life ever commanded, as he now commands, the affection of the great mass of the voters of this country. (Long applause.)

Blameless in private life as he has been useful and illustrious in public life, his name in our judgment will inspire more confidence, excite more enthusiasm and give greater guaranty of success than any other name that can be inscribed on the Republican banner. As the candidate of the Republican party he will command the support of all classes and shades of Republicans, and at the same time command also the help of tens of thousands of patriotic Democrats in every State of the Union. (Loud cheering.)

All who believe in America, all who believe in Americanism, all who believe in promoting and advancing the interests of America at home and abroad will rally to his support and help him to plant our banner in triumph on the citadel of the Nation. (Cheers.) His administration will be a fit rounding out of the glorious achievements of the nineteenth century and constitute a bright and inspiring chapter with which to commence the record of the second era of Republican rule. (Cheers.)

Under his administration there will be no deficits, no more bond issues in time of peace, no more bond syndicates, no more trouble about the National credit or the National currency, no more "higgling" about pensions for the men who saved this Union, and no hesitation whatever, such as we now see in the White House, in demanding and securing for the United States her rightful place and consideration among the Nations of the earth. (Loud applause.)

Called to that office, he will fill it without obligation to any influence of power except that which emanates from the people whom he will be called to serve, and in all that he does he will be governed by that belief upon which has been founded and run his whole career—that this Government is of the people, by the people and for the people. (Cheers.)

Other States are declaring for him. (Cheers.) Ohio can not lead the column; it is already on the march. (Cheers.) All we can do is to join the procession. We will not hesitate longer to take action in that respect. (Loud applause.)

I want my speech here to-day to be short enough for everybody to read it and plain enough for everybody to understand. I have sounded, gentlemen of the Convention, the keynote of this occasion. I thank you. (Long continued applause.)—Reprinted from Cleveland Leader.



SPEECH NOMINATING WM. McKINLEY FOR PRESIDENT, AT THE NATIONAL REPUBLICAN CONVENTION, ST. LOUIS, MO., JUNE 18, 1896.

Mr. Chairman and Gentlemen of the Convention:

It would be exceedingly difficult, if not entirely impossible, to exaggerate the disagreeable experiences of the last four years. The grand aggregate of the multitudinous bad results of a Democratic National administration may be summed up as one stupendous disaster; it has been a disaster, however, not without at least one redeeming feature. It has been fair—nobody has escaped. It has fallen equally and alike upon all sections of our country and all classes of our population. The just and the unjust, the Republican and the Democrat, the rich and the poor, the high and the low, have suffered in common. Idleness and its consequent poverty and distress have been the rewards of labor; distress and bankruptey have overtaken business; shrunken values have dissipated fortunes; deficient revenues have impoverished the Government, while bond issues and bond syndicates have discredited and scandalized the Nation. Over against this fearful penalty we can set down one great, blessed, compensatory result. It has destroyed the Democratic party. The proud columns that swept the country in triumph in 1892 are broken and hopeless in 1896. Their boasted principles when put to the test of a practical application have proven delusive fallacies, and their great leaders have degenerated into warring chieftains of hostile and irreconcilable factions.

#### AN APPROACHING NIGHTMARE.

Their approaching National Convention is but an approaching National nightmare. No man pretends to be able to predict any good result to come from it, and no man is seeking its nomination except only the limited few who have advertised their unfitness for any kind of a public trust by proclaiming a willingness to stand on any sort of platform that may be adopted. The truth is, the party that could stand up under the odium of human slavery, opposition to the war for the preservation of the

Union, emancipation, enfranchisement, reconstruction and specie resumption, at last finds itself overmatched and undone by itself. It is writhing in the throes of final dissolution superinduced by a dose of its own doctrines. No human agency can prevent its absolute overthrow at the next election except only this convention. If we make no mistake here the Democratic party will go out of power on the 4th day of March, 1897, to remain out of power until God in his wisdom, and mercy, and goodness shall see fit once more to chastise his people. So far we have not made any mistake. We have adopted a platform which, notwithstanding the scenes witnessed in this hall this morning, meets the demands and expectations of the American people. It remains for us now, as the last crowning act of our work here, to again meet the same expectation in the nomination of our candidate. What is that expectation? What do the people want? You all know.

They want something more than a good business man; they want something more than a good Republican; they want something more than a fearless leader; they want something more than a wise, patriotic statesman; they want a man who embodies in himself not only all these essential qualifications, but who in addition, in the highest possible degree, typifies in name, character, record, ambition and purpose the exact opposite of all that is signified and represented by the present free trade, deficit making, bond issuing, labor saving Democratic administration. I stand here to present to this convention such a man. His name is William McKinley. (Prolonged applause.)

### HEARD NAME BEFORE.

You seem to have heard the name of my candidate before. And so you have. He is known to all the world. His testimonials are a private life without reproach; four years of heroic service as a boy soldier for the Union on the battlefields of the Republic, under such generals as gallant Phil Sheridan; twelve years of conspicuous service in the halls of Congress, associated with such great leaders and champions of Republicanism as James G. Blaine; four years of executive experience as Governor of Ohio; but, greatest of all, measured by present requirements, leader

of the House of Representatives and author of the McKinley Law—a law under which labor had the richest rewards and the country generally the greatest prosperity ever enjoyed in all our history. No other name so completely meets the requirements of the American people; no other man so absolutely commands their hearts and their affections. The shafts of envy and jealousy, slander and libel, calumny and detraction lie broken at his feet. They have all been shot, and shot in vain. The quiver is empty and he is untouched. The American people know him, trust him, believe in him, love him, and they will not allow him to be unjustly disparaged in their estimation. They know he is patriotic; they know he is an American of Americans; they know he is wise and experienced; that he is able and just, and they want him for President of the United States. They have already so declared; not in this or that State or section, but in all the States and all the sections from ocean to ocean and from the gulf to the lakes. They expect us to give them a chance to vote for him. If we do we shall give joy to their hearts, enthusiasm to the campaign and triumphant victory to our cause; and he in turn will give us an administration under which the country will enter upon a new era of prosperity at home and of glory and honor abroad. By all these tokens of the present, and all these promises for the future, in the name of the forty-six delegates from Ohio, I submit his claims to your consideration.—Reprinted from St. Louis Globe-Democrat.

SPEECH RE-NOMINATING WM, McKINLEY FOR PRESIDENT. AT THE NATIONAL REPUBLICAN CONVENTION IN PHILADELPHIA, PA., JUNE 21, 1900

Mr. Chairman and Gentlemen of the Convention:

Alabama yields to Ohio, and I thank Alabama for that accommodation. Alabama has so yielded, however, by reason of a fact that would seem in an important sense to make the duty that has been assigned to me a superfluous duty, for Alabama has yielded because of the fact that our candidate for the Presidency has, in effect, been already nominated. (Applause.) He was nominated by the distinguished Senator from Colorado when he assumed the duties of temporary chairman. He was nominated again yesterday by the distinguished Senator from Massachusetts when he took the office of permanent chairman; and he was nominated for a third time when the Senator from Indiana yesterday read us the platform. (Applause.) And not only has he been thus nominated by this convention, but he has also been nominated by the whole American people. (Applause.)

From one end of the land to the other, in every mind only one and the same man is thought of for the honor which we are now about to confer, and that man is the first choice of every other man who wishes Republican success next November. (Applause.)

On this account it is that it is not necessary for me or any one else to speak for him here or elsewhere. He has already spoken for himself (applause), and to all the world. He has a record replete with brilliant achievements (applause), a record that speaks at once both his promises and his highest eulogy.

It comprehends both peace and war, and constitutes the most striking illustration possible of triumphant and inspiriting fidelity and success in the discharge of public duty.

Four years ago the American people confided to him their highest and most sacred trust. Behold, with what results.

He found the industries of the country paralyzed and prostrated; he quickened them with a new life that has brought to the American people a prosperity unprecedented in all their history.

### HAS GIVEN IT EMPLOYMENT.

He found the labor of the country everywhere idle; he has given it everywhere employment. He found it everywhere in despair; he has made it everywhere prosperous and buoyant with hope.

He found the mills and shops and factories and mines everywhere closed; they are everywhere now open. (Applause.) And while we here deliberate they are sending their surplus products in commercial conquest to the ends of the earth.

Under his wise guidance our financial standard has been firmly planted high above and beyond assault, and the wild cry of sixteen to one, so full of terror in 1896, has been hushed to everlasting sleep alongside of the lost cause, and other cherished Democratic heresies, in the catacombs of American politics. (Applause.)

With a diplomacy never excelled and rarely equaled he has overcome what at times seemed to be insurmountable difficulties, and has not only opened to us the door of China, but he has advanced our interests in every land.

Mr. Chairman, we are not surprised by this, for we anticipated it all. When we nominated him at St. Louis four years ago, we knew he was wise, we knew he was brave, we knew he was patient, we knew he would be faithful and devoted, and we knew that the greatest possible triumphs of peace would be his; but we then little knew that he would be called upon to encounter also the trials of war. That unusual emergency came. It came unexpectedly—as wars generally come. It came in spite of all he could honorably do to avert it. It came to find the country unprepared for it, but it found him equal to all its extraordinary requirements. (Applause.)

It is no exaggeration to say that in all American history there is no chapter more brilliant than that which chronicles, with him as our commander-in-chief, our victories on land and sea. (Applause.)

In one hundred days we drove Spain from the Western Hemisphere, girdled the earth with our acquisitions and filled the world with the splendor of our power. (Applause.)

In consequence the American name has a greater significance now Our flag has a new glory. It not only symbolizes human liberty and political equality at home, but it means freedom and independence for the long-suffering patriots of Cuba, and complete protection, education, enlightment, uplifting and ultimate local self-government and the enjoyment of all the blessing of liberty to the millions of Porto Rico and the Philippines. What we have so gloriously done for ourselves we propose most generously to do for them. (Applause.) We have so declared in the platform that we have here adopted. A fitting place it is for this party to make such declaration, here in this magnificent city of Philadelphia, where the evidences so abound of the rich blessings the Republican party has brought to the American people. Here at the birthplace of the Nation, where our own Declaration of Independence was adopted and our Constitution was framed; where Washington and Jefferson and Hancock and John Adams and their illustrious associates wrought their immortal work; here where center so many historic memories that stir the blood, flush the cheek, and excite the sentiments of liberty, humanity. and patriotism is indeed a most fitting place for the party of Lincoln and Grant and Garfield and Blaine (applause); the party of Union and Liberty for all men to formally dedicate itself to this great duty.

We are now in the midst of its discharge. We could not turn back if we would, and would not if we could. (Applause.) We are on trial before the world, and must triumphantly meet our responsibilities, or ignominiously fail in the presence of mankind.

These responsibilities speak to this convention here and now, and command us that we choose to be our candidate and the next President—which is one and the same thing—the best fitted man for the discharge of this great duty in all the Republic. (Applause.)

On that point there is no difference of opinion. No man in all the Nation is so well qualified for this trust as the great leader under whom

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the work has been so far conducted. He has the head, he has the heart, he has the special knowledge and the special experience that qualify him beyond all others. And, Mr. Chairman, he has also the stainless reputation and character, and has the blameless life that endear him to his countrymen and give to him the confidence, the respect, the admiration, the love and the affection of the whole American people. (Applause.)

He is an ideal man, representing the highest type of American citizenship, an ideal candidate and an ideal President. With our banner in his hands it will be carried to triumphant victory in November. (Applause.)

In the name of all these considerations, not alone on behalf of his beloved State of Ohio, but on behalf of every other State and Territory here represented, and in the name of all Republicans everywhere throughout our jurisdiction, I nominate to be our next candidate for the Presidency, William McKinley. (Applause.)—Reprinted from Philadelphia Press.

EXTRACT FROM SPEECH, AS TEMPORARY CHAIRMAN OF THE STATE CONVENTION HELD AT COLUMBUS, OHIO, JUNE 24, 1901.

Whatever else we may be, let us be Americans, and be worthy of the events with which we are associated. This is a great history-making epoch. Except only Washington and Lincoln, no president has had such opportunities as have fallen to McKinley. Not one has escaped him. All have been improved to the honor and glory of the Republic. No emergency has arisen that he has not triumphantly met, and no duty of war, peace or diplomacy has been so delicate or so difficult that he has not performed it grandly and successfully. All his achievements are the Nation's. His fame is ours. It fills the earth. All races honor and applaud him. The single note of discord is here, at home, among ourselves and under our own flag. It misrepresents the American people. It misrepresents the people of Ohio. Their verdict in Noymber will so declare.

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TRIBUTE WRITTEN FOR THE CINCINNATI COMMERCIAL-TRIBUNE OF THE DAY FOLLOWING WM. McKINLEY'S DEATH.

The worst has happened. It is hard to understand such a dispensation of Providence. The whole world is shocked, and this whole country is bereaved.

This is the third Presidential assassination within the lifetime of this generation. All have been startling and hard to understand; this one particularly so.

Lincoln was the victim of the fierce passions of war, and Garfield was shot by a lunatic. While, therefore, they were the most lovable of men, yet there was a rational way of accounting for their murder. But this is different. Of all the men in public life, McKinley was probably the very last anybody would have thought of as in danger of death by violence at the hands of a fellow-being. His whole life has been without offense, even to his political opponents. Always able and persuasive in debate, he never said anything bitter, acrimonious, or calculated to wound the feelings, even when provocation had been given.

In his intercourse with men he was always polite and considerate, and when he differed and refused requests he did it in such a way as to inflict the least possible disappointment.

In the discharge of his public duties he aimed always to promote the public welfare, and studiously, or, rather, naturally, for it was his nature, avoided all thought of self or selfish interest.

He had a pleasing personality and fascinating manner. He was free from ostentation under all circumstances, and never embarrassed in any presence, but he was most at home with the people. He delighted to mingle with them and talk with them, socially and informally, and was always pleased to address them on public questions. He always took them into his confidence, and felt, with keenest appreciation, that he understood them and they understood him.

And now, this man, so devoted to the people and so entrenched in their affections, is stricken down in their midst without a moment's warning, and the miserable assassin, not professing passion or lacking sanity, offers no excuse but duty. It is an awful, inscrutable mystery and crime.

His career was a great one—one of the very greatest to the credit of any American. He distinguished himself as a boy soldier fighting for the Union. He attracted attention and arose to distinction at once when he entered Congress, and steadily grew until made Governor of Ohio, and then twice President.

He perishes in the midst of what seemed to be particularly his great work. We can scarcely imagine how anybody else can complete it. While, therefore, he dies full of honor, his country suffers a loss that seems immeasurable.

J. B. FORAKER.

MEMORIAL MEETING HELD IN MUSIC HALL, CINCINNATI, OHIO, THURSDAY, SEPTEMBER 20 1901.

Description taken from Cincinnati Commercial Tribune of Friday, September 20.

With head bowed down and eyes bedimmed with tears, Cincinnati knelt in prayer yesterday—prayer for the honored dead and prayer for the loved living.

Assembled in Music Hall and in all the churches about town, assembled in private homes as well as in public places of worship, Cincinnatians gave vent to the grief that is theirs and found fleeting solace in a flood of tears.

Up in the little city of Canton those nearest and dearest to the martyred President. William McKinley, were paying a last respect to the ashes of the dead. Elsewhere in the Nation, and throughout the world, Americans were bowed in prayer, petitioning the All-Wise Ruler of the universe for strength to bear the burden of woe that has been thrust upon them.

Here in Cincinnati thousands who knew the dead President as a man and as Chief Executive of the Nation assembled together in Music Hall to do honor to his memory. As the prayers ascended at Canton, so did they ascend from this city. As the casket containing the remains of the President was placed in the vault in the little city that gave him to the world, the people of the greatest city in Ohio sobbed out a requiem.

Gathered in Music Hall yesterday morning was one of the most remarkable audiences that has ever been seen in this city—remarkable in its magnitude, remarkable in its representativeness, remarkable in its silence and reverence for the dead in whose honor it was gathered.

Music Hall, vast though it be, never held a larger audience.

It never held a more representative audience. It never gave protection to so many sorrowing people.

#### MANY SOUGHT ADMITTANCE.

Long before the hour set for the meeting people congregated and sought admittance. Outside the iron fence that surrounds Music Hall

a vast crowd surged back and forth, now threatening, now pleading, for admission. Elm Street was jammed from curb to curb for over a square. Those who attempted to force their way through the human gorge were almost crushed in the attempt. Some were injured. Several women and children fell in the crowd and were trampled under foot.

It was after 11 when the gates were opened. At least half the seats in Music Hall had been filled before by the ticket holders, and when the vast multitude outside began to rush in the scene was indescribably impressive.

It was a tidal wave of humanity. Through the doors and over the seats and down the aisles, ceaselessly, relentlessly, almost involuntarily, the great crowd swept and surged, while the mournful sounds of Chopin's "Funeral March" filtered through the swish of rustling skirts and the shuffling of feet.

Yet withal the crowd was orderly in its very disorder. It was not demonstrative, except in its sorrow. Those present had come with heavy hearts to weep and pray together. The awful crush and jam at the gates and the doors was a silent crush, in so far as there could be an absence of sound on such an occasion. It was like the resistless rushing of an unlocked flood. There was a roar that was silent and a silence that was a roar.

#### SEVEN THOUSAND PEOPLE.

About 7,000 people found places within the hall. More than that number were unable to gain admittance, and could only wait without the walls and add their voices to the melody that came from the thousand throats within.

And, oh! the stirring beauty of that melody!

Oh! the sadness of it and the pain!

Nothing could be more touching, nothing more beautiful, than the rendition of "America," by that sorrowing, loving, saddened audience.

The organ recital came first, and in its solemn simplicity caused tears to start and voices and lips to quiver.

The brief, appropriate and touching address of Mayor Fleischmann, an address that was well timed and well delivered, in words that were well chosen and sensibly said, came next.

And then, with simple pathos the Catholic Festival Chorus rendered the martyred President's favorite hymn, "Lead, Kindly Light" in a manner that impressed one with the wondrous depth of feeling that can be imparted by the human voice, and of the solemn grandeur of a chorus like the one that sung that hymn.

"Lead, Kindly Light, Amid th' Encircling Gloom," welled forth from a thousand throats, while tears dimmed countless eyes.

The prayer by Rev. Davis W. Clark came immediately after the rendition of the hymn.

The stillness that settled down upon the house while Dr. Clark was praying was as remarkable as any feature of the service. At a gesture from the minister the audience arose and stood with downcast eyes while the prayer was pronounced. One could almost have heard the dropping of a pin in that vast hall.

The Memorial Committee had had printed on the program two verses of "America." A note requested the audience to join in the singing of this best known of National songs.

### RESPONDED WITH FERVOR.

And the audience responded with a fervor that filled not only Music Hall, but the entire square and adjoining squares with melody. The crowd outside the hall took up the strain and the sounds were carried afar. People on the other side of Washington Park stopped and listened. Across at the hospital grounds men bowed in grief as the sweet sounds of the great chorus, with its complement of 7,000 voices, came rolling out from Music Hall.

The organ, with its wonderful tone and prodigious depth, was drowned out in the ocean of sound that poured from the myriad throats.

My country, 'tis of thee, Sweet land of liberty, Of thee I sing.

Was there ever a more inspiring sound? Could there be a more impressive ceremonial?

Up through the very roof that marvelous melody ascended. Out into the streets and through the park—up to the clouds it seemed to roll, gathering volume as it went and carrying with it the soulful supplications of a heart-broken people.

Sweet land of liberty.

Why should the sweet land of liberty be so stricken by one who had been welcomed to the feast of freedom? was a thought that seemed to be born of the very sentiment expressed in the song.

Land where my fathers died,

Land of the pilgrim's pride,
From every mountain side
Let freedom ring.
THREW SOLL INTO IT.

As the song progressed the vast audience seemed to throw its soul into the words. Men and women sang fervently, prayerfully, while tears streamed down their cheeks. Some of those on the stage were deeply affected by the scene and the sounds. It was an intoxication of grief.

Let music swell the breeze,
And ring from all the trees,
Sweet freedom's song;
Let mortal tongues awake,
Let all that breathe partake,
Let rocks their silence break,
The sound prolong.

Nothing could have been more appropriate to the occasion than the rendition of this song by the wonderful audience congregated in Music Hall. Nothing could have been more appropriate to the occasion than the verses selected by the committee for the chorus and the audience.

And nothing could have been more beautifully touching, nor fraught with greater grandeur than the manner in which those two inspiring verses of "America" were rendered.

Following the rendition of "Nearer, My God, to Thee," by the chorus, Senator Foraker arose and advanced to the front of the stage His voice was vigorous and penetrating, and every word that he uttered was heard in the furthest part of the hall.

The Senator had prepared his address in manuscript form, but he had to refer to the written words so seldom that it did not detract in any way from the effectiveness of his delivery. That he was much affected by the occasion was manifest several times during the delivery of the cration by a slight tremor in his voice—momentary, but nevertheless noticeable.

Those who heard the oration believe it to be one of Senator Foraker's greatest efforts.

# SENATOR FORAKER'S MEMO-RIAL ADDRESS.

Mr. Chairman and fellow citizens: "In the midst of life we are in death."

Never was the truth of these words more strikingly exemplified than by the tragedy that brings us here.

In the vigor of robust manhood; at the very height of his powers in the possession of all his faculties; in the midst of a great work of world-wide importance; in the enjoyment of the admiration, love and affection of all classes of our people to a degree never before permitted to any other man; at a time of profound peace, when nothing was occurring to excite the passions of men; when we were engaged in a celebration of the triumphs of art, science, literature, commerce, civilization and all that goes to make up the greatest prosperity, advancement and happiness the world has ever known; surrounded by thousands of his countrymen, who were vying with each other in demonstrations of friendship and good will, the President of the United States, without a moment's warning, was stricken down by an assassin, who, while greeting him with one hand, shot him to death with the other.

History has no precedent for such treachery and wickedness since Joah, deceitfully inquiring, "Art thou in health, my brother?" smote unsuspecting Amasa in the fifth rib and "shed out his bowels to the ground."

Imagination could not well picture out a situation of greater apparent security than that by which the President was surrounded.

But what was all life and health and happiness one moment was turned to dismay, horror and death the next. Verily,

"Like a swift-fleeting meteor, a fast-flying cloud,

A flash of the lightning, a break of the wave, Man passes from life to his rest in the grave."

The whole world is shocked, and Americans everywhere are humiliated, dazed and plunged into unspeakable grief and sorrow.

We can scarce realize that such a crime was possible, much less that it has been actually committed, and our sorrow is yet too fresh, our grief too poignant and our indignation too acute for us to contemplate it dispassionately or discuss it considerately.

But while we can not now speak becomingly of the murderer and his

awful crime we can fittingly employ this hour to commemorate the virtues of his victim, and to recount in part at least his great services to his country.

The allotted age of man is three score years and ten, but William McKinley was not yet fifty-nine when his career ended. In these short years he did a wondrous work. In its accomplishment he was unaided by fortuitous circumstances. He was of humble origin and without influential friends except as he made them.

#### A SOLDIER

His public service commenced in 1861, when he enlisted as a private soldier in the 23d Ohio Regiment.

Among the officers of that command were an unusual number of men of ability and high character, who afterward attained great public distinction.

Rutherford B. Hayes, afterwards President of the United States, was one of them, and Stanley Matthews, afterwards an associate justice of the Supreme Court of the United States, was another.

These men were quick to note and appreciate the bright, frank, genial and zealous young boy who had placed his services, and, if need be, his life, at the command of his country, and it was not long until they promoted him to a sergeantcy.

With responsibility, he developed and showed competency for something higher. One promotion followed another, all earned by efficiency and gallantry, until, at the close of the war, he was mustered out with the rank of major.

#### IN CONGRESS.

In due time he was admitted to the bar and elected prosecuting attorney of his county. His professional successes were of the most promising character, but just when he had begun to feel assured of distinction in the practice of the law, he was again called into public service and sent to Congress, where he served fourteen years with constantly increasing distinction, influence and usefulness.

He represented a manufacturing district, and on this account, as well as from natural taste and disposition, he gave particular attention to economic questions.

He was a thorough protectionist of the Henry Clay school, and soon became the leading advocate of that policy.

During all the years of his service in Congress the demands of our

home markets were far greater than our manufacturers could supply. There was a constant importation from abroad to meet this deficiency.

It was his contention that our resources were practically unlimited; that the employment of our labor should be diversified as much as possible; that wages should be higher in this country than in any other, because our standard of citizenship must be higher; and that, therefore, it should be our aim so to legislate as to secure the development of our resources, the multiplication of our industries, and the ever-increasing employment of wage earners who would make a home market for the products of the farm, to the end that we might, as quickly as possible, supply all our wants and thus make ourselves independent of all other countries.

He contended, as did Garfield and all other orthodox tariff men, that the only way to ever reach free trade, or tariff for revenue only, as to articles of our own production, without injury to the country, was through the operation of the policy of protection, whereby we would, in time, reach the point where, fully supplying our own demands, we could go into the markets of the world to dispose of whatever surplus we might have.

As chairman of the Ways and Means Committee of the House of Representatives, he embodied these views in a bill to revise the tariff and adapt it more perfectly to the conditions then existing, which was reported and passed, under his leadership, in 1890, after a protracted debate in which he gained great prestige by his successful championship of the measure.

#### THE K'KINLEY LAW.

The act was known as the McKinley law. It went into operation just prior to the elections of that year, at which time the country had not yet felt its effects.

It was bitterly assailed and denounced as increasing the burdens of taxation, and one provision in particular—that which, for the first time, made it possible to manufacture tin plate in this country—was both denounced and derided.

Taxation is always odious. It is easy to excite prejudice against any measure that is charged with its unnecessary increase.

It requires argument and practical results to meet such charges, and in this instance there was no time for either.

The result was that, aided by a congressional gerrymander, Major McKinley, the author of one of the greatest measures of the kind ever

placed on our statute books, was defeated for re-election to that body in which he had served with such patriotism and distinction.

He was not alone in his defeat. There were crushing defeats for the Republican candidates all over the country. His measure seemed to be condemned, and from every quarter there came criticisms for its author.

It was a dark hour for protection, a dark hour for the Republicar party, and especially a dark hour for William McKinley. It was a time that would have made most men waver; but not so with him.

The defeat, so far as he was personally concerned, only brought out in clearer light his strong qualities, his splendid self-control, his confidence in his faith, and his sublime courage, with which the country has since become so familiar.

At the first appropriate opportunity he answered and silenced all criticism, not by defending, but by aggressively resuming the advocacy of his measure, and proclaiming that, in view of the debates and the results of the law, which he could foresee, and all would soon feel, he was more a protectionist than ever before.

The operation of the law quickly vindicated his judgment, and the next year the rejected congressman was made governor of Ohio as a reward for his services in securing its enactment, after a spirited campaign in which the chief decorations at political meetings were tin cups, tin plates, tin horns, and all kinds of tinware, displayed in honor of the magic-like establishment and success of the tin plate mills that marked the beginning of one of our greatest and most important industries, for which we are indebted to him alone.

# GOVERNOR OF OHIO.

During the four years he held the office of governor of Ohio "the stars in their courses fought for him."

The elections of 1892 resulted in the choice of a Democratic President, on a free trade platform, supported by a Democratic Senate and a Democratic House of Representatives.

Mr. Cleveland had scarcely been inaugurated when there commenced a most disastrous panic and business paralysis.

His party undertook to check it and restore prosperity by repealing the McKinley law and substituting what is popularly known as the Wilson-Gorman act, but this seemed to make matters worse rather than better, and the hard times continued without abatement or interruption.

By the time 1896 was reached the question uppermost in every man's

mind was. How could prosperity be restored?

The Democrats said by free silver; the Republicans said by a return to the policy of the McKinley law.

That settled the issues and determined the candidates.

Long before the National Republican Convention met in St. Louis it was known who would be its nominee.

That body only registered what had already been decreed.

# PRESIDENTIAL CANDIDATE.

The canvass that followed was one of the most exciting, most closely contested and most highly educational the country has ever known.

From the hour of his nomination until the hour of his victory, Governor McKinley bore the most conspicuous part.

His home at Canton was the daily scene of assembled thousands who came from all parts of the country to see their candidate and pledge him their devoted support.

To the visiting clubs and delegates he was almost constantly speaking. His addresses were marvels of clear and elegant expression; no two were alike; every one had some new thought, and all were helpful to his cause. Not an unwise word was spoken.

The reserve force, the sound judgment and the rare versatility he displayed gave the country an enlarged conception of his intellectual stature and gave him that control and leadership of his party so essential to the success of a national administration.

#### AS PRESIDENT.

The whole country realized that he was fitted for this great office, and that under his guidance we would be led by a master hand.

Expectation was justified.

His first official act was to convene the Congress in extraordinary session. In the usual way, he submitted his recommendations. They were promptly accepted and enacted into law. Instantly the spell of stagnation was broken; confidence returned; business revived and the country entered upon an era of prosperity without a precedent in the history of this or any other nation.

If this had been the full measure of his work it would have been sufficient to have endeared him to all the people and to have ranked him as one of our greatest and most successful Presidents; but it was only the beginning, only one chapter of a whole volume of mighty history.

His fame will be chiefly associated with his conduct of the Spanish-

American war, the freedom of Cuba, the acquisition of our insular territories and the solution of the many difficult and far-reaching problems arising therefrom.

He did not seek war; on the contrary, he did all he could do honorably to avert it; but when it came he did not shrink from its requirements.

He met them with a purpose unselfishly consecrated to the honor and glory of the republic.

He was in reality, as in name, the commander-in-chief of the army and the navy of the United States.

He marshaled our forces on land and on sea and struck quick and hard and everywhere.

Not a regiment was organized, not a ship was put in commission, not a movement was made, not a battle was fought except with his personal knowledge, approval and direction.

The unbroken series of victories that crowned our arms and glorified our flag were his as well as those of our gallant soldiers and sailors.

There has been much acrimonious debate concerning the acquisition of the Philippines and the policy he has pursued there.

This can not be reviewed without trenching upon what have become partisan political questions, which some might object to the discussion of on this non-partisan occasion; but it can be said, without offending the reasonable sensibilities of any, that in it all he acted only from a sense of duty and according to his convictions of right and the obligations and interests of his country.

He died proud of his work in that respect, and in the just expectation that time will vindicate his wisdom, his purpose and his labors—and it will.

What he was not permitted to finish will be taken up by other hands, and, when the complete, crowning triumph comes, it will rest upon the foundations he has laid.

His great loss to the country will not be in connection with policies now in process of solution, but rather in connection with new questions. What he has marked out and put the impress of his great name upon will receive the unquestioned support of his own party and the great majority of the American people.

He had so gained the confidence of his followers and the whole country in his leadership that practically all differences of opinion on new propositions would have yielded to his judgment.

#### HIS LAST SPEECH.

The progress of events will not stop.

"Unsolved problems have no respect for the repose of nations."

New questions will arise—are arising—have arisen.

With his calm, clear judgment and foresight, he saw and appreciated all this. His last speech was a testimonial to this fact. It was in many respects the ablest, the most thoughtful and the most statesmanlike utterance he ever made. It was the triumphant sequel to his long years of sturdy battle for a protective tariff; a complete vindication of all his predictions in that behalf, and, at the same time, a fitting farewell to the American people whom he had served so well.

Who can exaggerate the gratification he must have experienced in pointing out the immeasurable prosperity that has resulted from the energizing effects of the policies he had done so much to sustain?

Dwelling upon the fact that we had now reached a point in the development of our industries where we are not only able to supply our home markets, but are producing a large and constantly increasing surplus, for which we must find markets abroad, he reminded us that if we would secure these markets and continue these happy conditions we must not only maintain cordial relations with other nations, but must establish such reciprocal relations of trade as will enable them to sell as well as to buy, and that in this great work we should utilize the protective element of existing duties where it is no longer needed for purposes of protection.

Over the details there will doubtless be differences of opinion, but as to the general proposition, his words will live after him to speak with decisive authority.

Such is a brief epitome, imperfectly stated, of only some of the great public services of this great son of our great state.

But he no longer belongs to us alone. We long ago gave him to the nation, and the nation has given him to the world.

There is no place in all Christendom where his name is not spoken with admiration and cherished with affection.

The whole world mourns with us and pays tribute to his memory; not because of his public services, for they were rendered for America, but for the gentleness of his nature and the nobility of his character. In these respects he is without a rival since Sir Philip Sidney.

#### HIS PERSONALITY.

He was of splendid presence, of pleasing personality and of polished

and graceful address. There was no court in Europe where his manner and deportment would not have commanded the highest respect, and yet it was all so natural and free from simulation or affectation that he was always, without any sacrifice of dignity or change of manner, familiarly at home with Abraham Lincoln's common people of America.

He loved his countrymen and was never so happy as when in their midst. From them he constantly gathered suggestions and ideas and wisdom. The cares of state were never so exacting that he could not give consideration to the humblest, and his mind was never so troubled that his heart was not full of mercy.

#### HIS ORATORY.

As a public speaker he had few equals. His voice was of pleasing tone and unusual carrying power. He had it under complete control. He could adapt it perfectly to any audience or any subject. It was always in tune with the occasion. From one end of the land to the other he was constantly in demand for public addresses. He responded to more such calls probably than any other orator of his time. Most of his speeches were of a political character, yet he made many addresses on other subjects; but no matter when or where or on what subject he spoke, he never dealt in offensive personalities. He drove home his points and routed his antagonist with merciless logic, but never in any other way wounded his sensibilities.

#### MRS. M'KINLEY.

The remarkable tale is not all told.

No language can adequately tell of his devoted love and tender affection for the invalid partner of all his joys and sorrows.

Amidst his many honors and trying duties, she ever reigned supreme in his affections.

The story of this love has gone to the ends of the earth, and is written in the hearts of all mankind everywhere. It is full of tenderness, full of pathos, and full of honor.

It will be repeated and cherished as long as the name of William Mc-Kinley shall live.

It was these great qualities of the heart that gave him the place he holds in the affections of other peoples. They claim him for humanity's sake, because they find in him an expression of their highest aspiration.

By common consent, he honored the whole human race, and all the race will honor him.

#### HIS RELIGIOUS CHARACTER.

But he was more than gentle.

He was thoroughly religious, and too religious to be guilty of any bigotry.

His broad, comprehensive views of man and his duty in his relations to God enabled him to have charity and respect for all who differed from his belief.

His faith solaced him in life, and did not fail him when the supreme test came.

When he realized the work of the assassin, his first utterance was a prayer that God would forgive the crime.

As he surrendered himself to unconsciousness, from which he might never awake, that surgery could do its work, he gently breathed the Lord's Prayer, "Thy Kingdom come, Thy will be done."

And when the dread hour of dissolution overtook him and the last touching farewell had been spoken, he sank to rest murmuring, "Nearer, My God, to Thee."

This was his last triumph, and his greatest. His whole life was given to humanity, but in his death we find his most priceless legacy.

The touching story of that death-bed scene will rest on generations yet unborn like a soothing benediction.

Such Christian fortitude and resignation give us a clearer conception of what was in the apostle's mind when he exclaimed, "O death, where is thy sting? O grave, where is thy victory?"—Cincinnati Commercial Tribune, September 20, 1901.





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# ADDRESS OF

# HON. J. B. FORAKER

On the Occasion of the

UNVEILING OF MONUMENT

In Honor of

# HON. JOHN A. BINGHAM



... At ...

Cadiz, Ohio, October 5, 1901







# ADDRESS OF

Hon. J. B. Foraker on the Occasion of the Unveiling of Monument in Honor of Hon. John A. Bingham, at Cadiz, Ohio, October 5, 1901.

### MR. CHAIRMAN AND FELLOW CITIZENS:

The private life and character of John A. Bingham were the special possessions of this community.

You were his neighbors and friends.

He came and went in your midst.

You were in daily contact with him.

You knew him under all the varying circumstances of his long and eventful career.

You saw him tested by the trying vicissitudes of the tempestuous times with which his most conspicuous public service was identified.

You knew better than anybody else can his private life and character, and time and again you honored him with your confidence and attested your high estimate of his personal worth, his integrity, and his splendid qualities of nature and heart.

It would be almost out of place for me to speak of him on these points in this presence.

As to his public life, it is different. It is the common property of the whole country—mine as well as yours. This monument is in its honor and this occasion calls for its review.

The first twenty-five years of his life were spent in preparation; the last fifteen in retirement.

The other forty-five years that he lived were devoted almost exclusively to the public service.

He entered upon his career with a mind all aflame with zeal for the great work in which he was to engage.

He dealt with all the economic questions of his day—finance, taxation, national banks, the tariff, and public improvements; but the subjects with which his fame is linked were slavery, secession, rebellion, and reconstruction.

To intelligently appreciate his work, we must approach it as he did.

Slavery was a disquieting subject when the Union was organized and the Constitution was adopted. It was only by compromise, aided and made possible by the hope, then generally entertained, that slavery would somehow be soon abolished, that success was achieved.

But slavery did not perish, as anticipated. On the contrary,

it grew in strength.

The development of the cotton industry and the adaptability to it of slave labor gave the South a new and an increased interest in the maintenance of the institution. As a result, it soon became a political question.

It assumed threatening proportions when the admission of Missouri as a State to the Union, with a slave constitution, was

proposed in 1818.

The debates that ensued took on a sectional aspect which was made permanent and intensified by the Missouri Compromise, effected in 1820, according to which both Maine and Missouri were admitted—one free and the other slave; and it was stipulated and enacted that never thereafter should any State be admitted with slavery north of 36° 30′ north latitude.

Both Democrats and Whigs undertook to treat the line so drawn as a permanent settlement of the territorial rights of slavery, and a period of comparative political peace followed.

For twenty years both Whigs and Democrats devoted themselves to business questions, and, so far as they were concerned, succeeded in keeping slavery effectually in the background.

But God was marching on.

While Clay and Jackson and their respective adherents were battling over the issues they saw fit to make with each other, a new political force was entering the arena, at first weak and unnoticed except to be despised, but destined to grow strong enough to overthrow both parties and compel reorganization on new lines that had direct reference to slavery.

This new force assumed a party name and made its first appearance as a national organization in 1840, the same year that Mr. Bingham was admitted to the bar.

He was then twenty-five years of age, and blessed with a thoroughly sound mind in a thoroughly sound body. His life

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had been one of struggle and endeavor. It had strongly developed his great mental powers. He had a natural aptitude for public affairs. This quality was intensified by the discussion of the times. Webster, Calhoun, Clay, Jackson, Van Buren, Benton, Marcy, Corwin, Chase, and their associates were the political leaders then on the stage of action. When they spoke they challenged attention and aroused all the mental activities that men possessed.

The preparatory steps could not have been better ordered if they had been taken with special reference to the famous log cabin, coon-skin, and hard cider campaign that marked the year of Mr. Bingham's first appearance in public and made the hero of Tippecanoe President of the United States.

There was intense excitement everywhere. All classes of people talked politics and little else.

Mr. Bingham's tastes and acquirements were such that he would have doubtless drifted into the discussion if conditions had been normal, but under the circumstances that obtained, he could not have kept out if he had tried.

He actively participated and at once attracted attention and commanded respect for his ability, logic, and oratory.

That campaign, with all its excitements, was not, however, of a character to call forth his full powers. The Whig party, to which he belonged, had no platform except their candidate, and only economic questions were involved in the discussion.

The great moral question that was so soon to absorb all attention was kept in the background.

It appeared in the contest, but only as a little cloud on the horizon no bigger than a man's hand.

It was represented by the Abolition party which then, for the first time, placed a candidate in the field; but he received from all the States an aggregate of less than 7,000 votes. This did not affect the result. It showed less strength than had been conceded. It was thought the result would discourage the cause, but its champions were resolute, determined men of a high order of ability, who, acting upon conviction, had no thought of surrender.

Ridicule, derision, and mob violence—to all of which they were subjected—only inflamed their zeal. The names of Owen Lovejoy, Wendell Phillips, William Lloyd Garrison, and many

others associated with them as leaders in this movement, were soon to become familiar to the American people.

They were commonly abused, maligned, hated, and detested, but they held steadily to their work, commanded attention, and constantly increased their followers.

Events helped them.

Harrison was dead and Tyler had succeeded to the Presidency. He quarreled with the Whigs, who had elected him, and undertook to secure the support of the Democrats by making John C. Calhoun his Secretary of State. Calhoun disliked him, but two considerations moved him to accept; one was the opportunity it gave him to serve the South by bringing about the annexation of Texas and thus adding to the area of slave territory, and the other was the chance it thereby gave him to overthrow Van Buren, to whose leadership and candidacy for renomination as the Democratic candidate in 1844 he was openly and bitterly opposed.

He was not long in solidifying the South in favor of annexation. That brought the slavery question at once to the front and, with singular fatality, destroyed both Clay and Van Buren.

To hold his strength in the North, Van Buren announced that he was opposed to annexation. The result was that while he had a majority of the delegates, the South controlled more than one-third of the convention and, consequently, under the two-thirds rule, his nomination became impossible, and James K. Polk was made the nominee and Van Buren's leadership was ended forever.

Mr. Clay was under the same compulsion. He could not be elected unless he could hold his northern strength, and therefore he opposed annexation. This gave him the nomination, and undoubtedly would have given him also the election if he had not, in the midst of the campaign, to mollify the dissatisfied Whigs of the South, written his famous Alabama letter, in which he virtually retracted his former declaration, by naming conditions under which he would favor annexation.

Until the writing of this letter, his position was satisfactory to all the anti-slavery Whigs of the North; but his letter was regarded as a virtual surrender of what had become the all-absorbing question of the contest, and, as a result, thousands of men who had become hostile to slavery broke away from a party

that no longer gave hope of earnest opposition to its aggravating pretensions.

The result of the election depended on New York, and the defection was so great in that State that, with the loss of the heavily increased Abolition vote, the Whigs were defeated. The electorial vote went to Polk, and he was made President of the United States, in the interests of slavery, by the combined vote of the Abolitionists and the slaveholders and their sympathizers.

The result was strangely and almost mysteriously reached, but it was of most momentous character.

Clay was defeated, and the hearts of his followers were broken. It seemed to them a strange and unjust dispensation of Providence. They could not understand it, and for a time refused to be reconciled. Men who had been watching, hoping, and praying for the decline and extinction of slavery as necessary to the peace and preservation of the Union, viewed the acquisition of Texas with alarm and despair.

But the hand of God was in it all, and what was then so incomprehensible has been made plain by His unfolded purposes.

Except only then and in the manner in which it was effected, Texas probably never could have been peaceably added to the United States. But however that may be, its acquisition was the beginning of the "irrepressible conflict."

The issue was joined and the battle was to the death which was to determine whether this country should be all slave or all free.

The war with Mexico accentuated the dispute and made sectional differences irreconcilable.

Although slavery was all the while at the bottom of the controversy, yet it from time to time took on various forms of discussion.

Thoughtful conservative men taxed their powers and their ingenuity to devise methods and measures to allay discussion and appease the demands of public sentiment, but no sooner was one question settled than another arose, and thus the tide, although at times apparently subsiding, was constantly rising until, finally, sweeping all before it, the dread alternative of arms was reached and the ultimate settlement was made in blood.

The South, forseeing that the North was outstripping her in the growth of population and political power, and that the time would inevitably come when she could no longer retain control of the Government, espoused the doctrine of secession, according to which any State had a constitutional right to withdraw from the Union whenever it might see fit to do so. She intended by this to rule while she could and then destroy when control was lost and on the ruins build anew with slavery as the chief cornerstone of her structure.

At the same time arose the question of the rights of slavery in the Territories, and John C. Calhoun, to give it a status there and make more slave States possible, advanced the doctrine, of which we have recently heard so much, that the Constitution followed the flag, and hence gave the same protection to slave ownership there that it gave in the States.

The Wilmot Proviso, the Lecompton Constitution, squatter sovereignty, the Fugitive Slave Law, the Dred Scott Decision, the repeal of the Missouri Compromise, and the Kansas-Nebraska Act are names and phrases that suggest the varying and succeeding phases of the discussion and subordinate questions and propositions, about which there is no time to speak adequately within the limitations of this occasion.

It is enough to say they mark the character and the progress of the political debates in which Mr. Bingham became an active participator.

It is no exaggeration to say that they were the greatest questions the American people had dealt with since the Government was organized, and the men who conducted the debate were the ablest since the formative period of the Republic.

To attain prominence and distinction among them and be a leader of such leaders was the uncommon honor Mr. Bingham achieved.

In 1848, when he was but thirty-three years of age, he was made a delegate to the National Whig Convention at Philadelphia, and, by what seemed at the time a fruitless effort, made for himself, at one stroke, a national reputation.

It was known before the convention met that General Taylor would be its nominee, but its platform declarations had not been determined.

The slavery question was uppermost in the minds of all; yet both the Democrats and Whigs were anxious to evade it—the Democrats, to save their strength in the North, and the Whigs to hold their strength in the South. Accordingly, to the keen disappointment of thousands of their respective followers, both conventions practically ignored the whole slavery question.

The Whigs were saved at the election by the Free Soilers, who drew largely from the Democrats but only slightly from the Whigs because of their dislike of Van Buren, who headed the movement as its candidate.

Taylor was elected, but his party was incapable because it did not have the courage of its convictions.

It went to pieces while in power, as all such parties will, and, with the humiliating defeat of General Scott in 1852, gave way to the Republican party born of the people to do their will.

"All is well that ends well," and, therefore, measured by what followed, it is well that the Whig party perished.

But if Mr. Bingham had been allowed his way, the Whig party need not have died. It might not have elected Taylor, but it would have marshaled later the triumphant forces led by Lincoln.

He showed his grasp of the situation and his knowledge of its requirements, as well as his convictions of right and his courage to maintain them, when, in that convention, he offered the famous resolution which you have carved on his monument, that it may be linked with him in death as it was inseparable in life—

"NO MORE SLAVE STATES; NO MORE SLAVE TERRITORIES—THE MAINTENANCE OF FREEDOM WHERE FREEDOM IS AND THE PROTECTION OF AMERICAN INDUSTRY."

These sharp, decisive sentences, going to the very marrow of the political contentions of the time, were rejected by the convention, but they cut into the hearts of men and made the name of John A. Bingham dear to every enemy of slavery.

They crystallized a sentiment and formulated a policy.

They appealed to the conscience and gave an intelligent and inspiring purpose to political action.

It is difficult for us, in the light of the present, to realize the full measure of credit to which Mr. Bingham is entitled for the courage he displayed in thus firmly and explicitly taking such a stand.

The evil of slavery, the curse it was to the country, and the blessings that have resulted from its extinction, are all so manifest that we are not surprised to learn that men were then opposed to it; on the contrary, it seems so natural that it should have had opposition that we wonder rather that anybody should have defended it; but prevailing public sentiment on the subject was then radically different from that which it was destined soon to become.

The institution was recognized and protected by the Constitution. It could not be interfered with in the States without violating that organic law and also numerous statutory provisions that had been enacted in its behalf.

It involved great moneyed interests and was upheld by prejudices in its favor throughout the North as well as in the South. It was like striking at the law, order, and peace of the nation to attack or criticize it.

Some idea of the sensitiveness that prevailed with respect to it is given by what has been said as to the disposition of the two great parties and their respective leaders to keep it out of the politics of the times.

Bingham had to brave all this and did.

He took the lead, and while change of sentiment was inaugurated by the discussion he provoked, yet four years later, when 1852 came, so little progress had been made that the Whig party approved in its platform all the pro-slavery legislation that had been enacted, expressly including the iniquitous fugitive slave law "as a settlement in principle and substance of the dangerous and exciting questions" that had been raised in regard to slavery, and pledged itself to "discountenance all efforts to continue or renew such agitation, whenever, wherever, or however the attempt may be made; and we will maintain the system as essential to the nationality of the Whig party and the integrity of the Union."

These declarations were intended to suppress the Binghams and all the other troublesome agitators. They failed in their purpose, but they show the deplorable state to which the Whig party had been reduced by the cowardice of its leaders in the presence of that great question.

They also show how far Mr. Bingham was in advance of public sentiment and to what extent he was defying it; they show, too, how he was at variance with his party and practically in rebellion against it.

It is easy for a young, ambitious man to go with the current and stand in line with his party, but only the man with clear judgment, conscientious scruples, and approved courage will disregard these considerations and stand by his conceptions of right, truth, and justice.

That is what Mr. Bingham determined to do, and he did it.

He did not have to wait long for the reward of vindication. It came with the birth of the Republican party, which espoused the sentiments he had avowed and sent him to Congress in 1854 at the early age of thirty-nine years.

His record there covers sixteen years of service so faithful and so distinguished that its history is for that period but the history of his party and his country.

He served on the most important committees and held the most important chairmanships. He gave diligent and unremitting attention to all the work assigned him. He participated in all the debates that occurred and always showed a learning, a research, an ability, a readiness, and an oratory that gave him a first rank among the great men of that great time. He was a veritable pillar of strength to the cause of freedom, the cause of the Union, and the cause of reconstruction. His speeches were so numerous and so notable that anything like a proper review of them in detail would require a volume. But, as showing the political atmosphere by which he 'was surrounded, the spirit of bitterness that entered into the debates in which he participated, and also to show his ability, his eloquence, and his intense earnestness, one of his earliest efforts may be mentioned.

The first session of Congress in which he sat as a member, commenced in December, 1855.

The struggle of the slave power to capture Kansas and Nebraska was then ripening to its climax.

The question entered into the organization of the House of Representatives, and many weeks passed, filled with angry debate, before Nathaniel P. Banks, of Massachusetts, was finally chosen to be Speaker over William Aiken of South Carolina.

Mr. Bingham took a modest, yet, for a new member, a very prominent part in this struggle.

It was scarcely ended until he made his first formal speech. Kansas was his theme, and it is enough to say that he did the subject justice. But a few weeks later, he thrilled with pride and enthusiasm the hearts of his associates and followers throughout the nation and correspondingly angered and inflamed his opponents by his burning words of denunciation of slavery spoken in the debate on the resolution to expel Preston S. Brooks of South Carolina, from the House of Representatives, because of his brutal attack on Charles Sumner, whom he struck down and beat almost to death with his cane on the floor of the Senate for words spoken, as a Senator from Massachusetts, against slavery and its aggressions in the Territories.

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This debate was one of the most bitter that preceded the war. Mr. Bingham took the floor to make immediate answer to Mr. Clingman of North Carolina, who, in common with his fellow members from the South, who participated in the debate, had most abusively spoken of Mr. Sumner and of all who sympathized with the doctrines enunciated by him in the great speech that had provoked the assault.

The brutal character of this speech, added to the brutal assault, had thoroughly aroused Mr. Bingham. It stirred him to his very depths. As a result, he rose to the highest flights of eloquence.

An extract will show not only his ability, his oratory, his eloquence, his fearlessness, and his powers of vehement invective, but also the general character of the discussions of that time. In the course of his speech he said:

"The brilliant and distinguished Senator from Massachusetts is the subject of this assault-that Senator who, notwithstanding the attempt of the gentleman from North Carolina (Mr. Clingman) to defame him, holds now, and will hold, a large place in the affection and admiration of his countrymen. That Senator, sir, denounced the audacious crime which is being committed in Kansas. In his place as Senator, he made a powerful and convincing argument against the unparalleled conspiracy which is subjecting that young empire of the West to a cruel and relentless tyranny-a tyranny which inflicts death on citizens guilty of no offense against the laws; which sacks their towns and plunders and burns their habitations; which legalizes, throughout that vast extent of territory, chattel slavery,-that crime of crimes,-that sum of all villainies, which makes merchandise of immortality, and, like the curse of Kehama, smites the earth with barrenness-that crime which blasts the human intellect and blights the human heart, and maddens the human brain, and crushes the human soulthat crime which puts out the light and hushes the sweet voices of home—which shatters its altars and scatters darkness and desolation over its hearthstone—that crime which dooms men to live without knowledge, to toil without reward, to die without hope—that crime which sends little children to the shambles and makes the mother forget her love for her child in the wild joy she feels that through untimely death inflicted by her own hands, she has saved her offspring from this damning curse, and sent its infant spirit free from this horid taint, back to the God that gave it.

"Against this infernal and atrocious tyranny upheld and being accomplished through a stupendous conspiracy, the Senator from Massachusetts, faithful to his own convictions, faithful to the holy cause of liberty, faithful to his country and his God, entered his protest, and uttered his manly and powerful denunciation.

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"That Senator, sir, comes from Massachusetts, where are Lexington and Concord and Bunker Hill and the Rock of the Pilgrims—'where every sod's a soldier's sepulchre'—where are the foot-prints of the apostles and martyrs of freedom—that State which allowed a trembling fugitive, fleeing only for his liberty, to lay his weary limbs to rest upon Warren's grave—that State whose mighty heart throbbed with human sympathy for the flying bondman who, guilty of no crime under the forms of law, but in violation of its true spirit, walked in chains beneath the shadow of Faneuil Hall, where linger the sacred memories of the past and the echoes of those burning words, Death or deliverance."

It would be a pleasing task to cite and dwell upon many other of the great speeches he made, but time will not permit. His many important public services as counsel for the Government in the causes he tried as Judge Advocate General by appointment of Abraham Lincoln, whose confidence and friendship he enjoyed to the fullest degree, must be passed over unmentioned for the same reason.

So, also, the important and conspicuous service he rendered as manager on behalf of the House of Representatives in the impeachment of Andrew Johnson.

This may be done with much less regret because, notwithstanding their distinguished character, they were transient in their nature. His many permanent services are all important. None can be mentioned and analyzed except with interest and profit; but one will suffice. It is undoubtedly his most important; it is also characteristic of the man and representative of the high plane upon which he labored.

The great purpose of his resolution of 1848, had been fully accomplished. The further extension of slavery had been stopped by the advent of the Republican party to power, and the system itself had perished amid the flames of war. That result had been sealed by the adoption of the 13th Amendment to the Constitution of the United States.

The war was ended. Secession was dead and all men were free, but it seemed as though statesmanship had but reached the beginning of its troubles.

The changes wrought had given birth to new and most perplexing problems. Were the States that had been in rebellion in or out of the Union? And whether in or out, how were they to be restored to their proper statal relations to the general Government? Under the Constitution as it existed before the war, slaves could not vote, but, in determining the basis of representation in Congress and the Electoral College, five slaves were counted as three voters.

There were no more slaves. They were freedmen—a new class. Should they be allowed to vote? And, if not, should they be included in the basis of representation? And, if so included, should the three-fifths rule continue or should each man be a unit?

There was grave concern about the payment of the tremendous national debt that had been contracted to save the Union and serious apprehension on the subject of pensions for our soldiers and the possible assumption, at some time in the future, of the Confederate debt and the payment of claims for the liberation of slaves that had been freed.

The peace of the country required a prompt and final settlement of all these questions.

The policy of Andrew Johnson precluded any such settlement, for his contention was that the States were not only indestructible, but that in every legal sense of the word, they were still in the Union, and that no legislation of either a constitutional or a statutory character was necessary to restore them to their proper relations to the General Government.

Without waiting for Congress to take any action, he proceeded, by proclamation, to authorize the organization of provisional legislatures, and they in turn, selected United States Senators and provided for the election of Representatives in Congress.

The extreme danger to which the country was subjected by such a policy was forcibly illustrated when, as a result of it, Alexander H. Stephens, late Vice-President of the so-called Southern Confederacy, appeared in Washington at the opening of Congress in December, 1865—only a few months after Appomattox—with a commission to represent his State in the Senate of the United States, and demanded a seat in that body.

If a full representation of the rebellious States was thus to be allowed in the administration of the Government, the friends of the Union might speedily lose control of it, and thus, by ballots, the forces of secession would be enabled to accomplish what they had failed to do with bullets.

It was soon manifest that there could not be any reconstruction of the Union without Congressional action and that to make the settlement of the war final, it would be necessary to embody it in the Constitution itself, where it would be placed beyond repeal or modification except by the sovereign power of the people.

Thus the 14th Amendment became necessary.

Some of the admirers of Mr. Bingham have claimed for him practically all the credit of drafting that amendment and securing its adoption. That is more credit than he is entitled to receive.

The 14th Amendment was, of itself, a great instrument second in importance and dignity to only the Constitution itself. It was not struck off in a moment by the hand of any one man, or as the product of any one mind. Many men contributed to it; many events led up to it.

But while Mr. Bingham is not entitled to the credit of sole authorship, he is entitled to the very high credit of being one of the very first to recognize its necessity and to take the initial steps that ultimately resulted in its adoption.

He introduced in the House a joint resolution providing for such an addition to our organic law. The record does not disclose the exact language he employed, but enough is given to show that as to its principal clauses, his language was practically the same as that finally adopted. This is especially true as to the franchise clause. For this provision, he is, no doubt, entitled to more credit than any other man, and that is credit enough, for it is, indeed, credit of the highest character.

The record shows, as might be expected, that other resolutions similar to his and a number of forms of amendment were introduced in both the House and the Senate, and that it was only after consideration of all, by the proper committees, that, with various changes, the amendment was finally adopted in the consolidated form in which it was ratified by the States.

It was a comprehensive instrument. It dealt with the public debt to make it sacred; including pensions and obligations on account of bounties to Union soldiers and provided against all forms of denial or repudiation.

It prohibited the assumption by the United States or any State of any and all debts contracted to aid the rebellion or for payment for emancipated slaves.

It fixed the rule of eligibility to hold office for all who had taken an oath to support the Constitution of the United States and had afterward participated in the rebellion.

It fixed the basis of representation according to the number of authorized voters, but left it optional with each State to enfranchise freemen or not; the sole disadvantage imposed if they did not, being a corresponding curtailment of representation or diminution of political power.

This and the provision defining citizenship of the United States were the most important provisions of the amendment. All others were temporary in character, while these were for all time. These two—citizenship and suffrage—were the great crucial points in the settlement of the differences that had led to the war and of rights and demands that had grown out of that great struggle.

The propriety of defining citizenship of the United States is so manifest that it may be dismissed without comment, other than that it is a matter of wonderment that the Constitution, as originally framed, should have omitted so important a clause.

The right of suffrage conferred upon the negro and the basis of representation established by the amendment must be considered together.

The old basis of representation was manifestly no longer appropriate. The slaves were free and must be treated as free men. If they were to be counted at all in determining the basis of representation, they must be counted as men and not as chattels. The sole question was whether or not they should be included at all in the enumeration.

The conclusion reached was that they should not be included unless given the right of suffrage; and that this right should be conferred or not, at the option of each State.

Such was Mr. Bingham's provision, as originally proposed by him, and such was the provision as it was incorporated into the amendment as finally ratified and adopted. This was the sole requirement as to the Negro imposed by the Government as a condition precedent to the resumption by the rebellious States of their full relations to the Government.

It left the whole subject of Negro suffrage in their own hands, to deal with as they saw fit. They could give it or withhold it. If they saw fit to let the Negroes vote, they could count them in determining, how many Representatives they should have in Congress and how many votes they should have for President and Vice-President in the electoral college. If they did not let them vote, they could not include them in the basis of representation.

That this was a generous proposition and a fair one to the South does not admit of argument. It was prompted by a desire to speedily restore the Union and was made in the belief that the South would show its appreciation for the spirit of generosity and good will involved, by a ready and cheerful acceptance.

This expectation was disappointed.

Emboldened by the attitude of President Andrew Johnson, the provisional legislatures he had called into existence and which were composed almost entirely of ex-Confederate officers and soldiers, rejected the amendment by a practically unanimous vote and with evidences of scorn, contempt and hostility.

They had come to believe that they would be allowed to resume their relations to the National Government without any terms or conditions whatever, as the President proposed, and that, so restored to all the sovereign rights of States in the Union, they would keep themselves free to act without restraint or restriction of any kind. It quickly developed that they had a program to practically nullify emancipation by reducing the freedman to a worse condition of slavery than that from which he had been released.

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They inaugurated it by acts of legislation that provided heavy fines of \$50 or \$100, and other such amounts, to be imposed on all who might be found loitering without work, and, in default of payment, hiring them out—selling them—for six months or a year, or other period, as the case might be, to the highest bidder.

The poor Negro, just emancipated, had neither work nor money. By refusing him employment, he was compelled to "loiter," and having no money with which to pay his fine, he was "hired" to the highest bidder, who had no interest in either his health or his life beyond the term for which he was hired.

Truly his last estate was worse than his first.

Many similar statutes were passed, but perhaps the most inexcusable was enacted in Louisiana, where, among others, it was provided that every adult freedman should provide himself with a comfortable home within twenty days after the passage of the act, and, failing to do so, should be "hired" at public outcry to the highest bidder for the period of one year.

Such legislation was barbarous, inexcusable and intolerable. It meant that if allowed to have their way about it, the defeated Confederates would bring to naught all that had been accomplished.

It was, therefore, not a matter of choice but a matter of compulsion that impelled Congress. It determined to abolish the provisional legislatures, divide the South into military districts, and organize State governments and legislatures composed of only loyal Union men, and then submit anew the 14th Amendment for ratification.

This proposition—the famous Reconstruction Bill—excited the most bitter, protracted, and the most important debate that has ever occurred in the American Congress.

Mr. Bingham was at the very forefront in it all. From beginning to end, he was untiring. His unwavering and masterful support of the measure made him a conspicuous figure not only in Congress, but before the whole nation.

The measure was passed. The Southern State governments were reconstructed. The 14th Amendment was re-submitted, ratified and adopted.

There has been much angry criticism of the Republican party for this procedure, intensified by the unsatisfactory character of the carpet-bag State governments and legislatures—as they were called at the time—that were thus temporarily forced upon the South, but it has been without just foundation.

. . . .

The men who were responsible for the reconstruction measure and the carpet-bag governments were the men of the South, who, misled by President Johnson, undertook to dictate the manner of restoring the Union, and, in that behalf, to put in jeopardy all the results of the war, including the liberty and freedom of the unoffending blacks who were, in a special sense, the helpless wards of the nation.

It was in the same spirit and for the same reason that the 15th Amendment followed, providing that neither the United States nor any State should deny or abridge the right of any citizen of the United States to vote on account of race, color, or previous condition of servitude.

Had the 14th Amendment been adopted when first submitted, as it should have been, there would not have been a 15th Amendment, because it would have been impossible, with the Southern States restored to the Union, as the 14th Amendment proposed, thereafter to have secured for a 15th Amendment a ratification by three-fourths of the States, and thus would the whole subject of Negro suffrage have remained, as was originally intended, under the control of the States, with the option to each State to grant or refuse it, as it might prefer.

If, therefore, there was fault in providing for universal manhood suffrage, it must be laid at the door of the men who, rejecting the 14th Amendment and threatening to bring to naught all the blood and treasure that had been expended, created a necessity for the more drastic measures that were adopted.

But there was no fault.

Both amendments were right. The perverse blindness and obduracy of the South were but the Providentially designed precipitating causes necessary to excite the men upon whom rested the responsibilities of that hour to the fearless and unflinching performance of the full measure of their duty.

To our finite minds, much less good has come from the 15th Amendment than we had a right to expect, but the time is coming

when the legal status thus given the black man will be his practically and universally recognized status in all the States of this Union.

What is right will ultimately prevail.

Until then the irrepressible conflict will continue. Human liberty and human equality involve principles of truth and justice that cannot be forever suppressed and disregarded. Efforts of such character, whether by States or individuals, will but call attention to the wrongs of denial and hasten the day of final triumph.

These events mark an epoch in the world's history. The humblest part in such achievements is highly creditable; but to have been a moving and controlling cause and factor, an eloquent, uncompromising, and commanding leader and champion was the high privilege and imperishable honor of John A. Bingham.

His work will stand as long as the Republic endures, and through all the years it remains it will bring rich blessings to millions.

His life drew gently to a close. His noontime was full of storm and turbulence; his afternoon and evening full of quiet, restful peace and beauty.

In Japan, as our Minister, he spent twelve years of great usefulness to his country. He opened the way for enlarged commercial relations, and by his simple, straightforward American manner, impressed a respect and regard for our civilization, of which we are now reaping the reward.

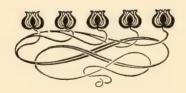
Here, in his home, surrounded by family and friends, his last days were spent awaiting the summons that, sooner or later, must come to all.

This monument attests your esteem, your admiration, your love, and your affection for your neighbor, your townsman, your friend and your great Representative in that great crucial time when our national existence and our free popular institutions were put to the sore trial of blood and relentless civil war.

Through the wisdom and the statesmanship, of which he was representative, and also a large part, we were saved from dissolution and made stronger in union than ever before. The war with Spain demonstrated how well the great work had been done.

From no section came more prompt or more patriotic response than from the South. The ex-soldiers of the Union and the Confederate armies and their sons marched side by side to meet a common enemy and win a common victory; and when our late martyred President, in the midst of his great work, was struck down by the assassin, our institutions sustained the shock without a jar and the Government moved on without a tremor, none mourning his loss to the nation more than the men who had periled their lives for the stars and bars and the cause it represented.

Such tests as these show us the measure of our debt to the men who saved this nation. They were not alone the gallant soldiers and sailors who carried our flag to victory, but also the men who, standing at the helm, guided the ship of State.









## SPEECH

OF

# SENATOR FORAKER

AT

DELAWARE, OHIO, OCTOBER 19TH, 1901.

MR. CHAIRMAN, GENTLEMEN AND FELLOW CITIZENS:

TRIBUTE TO DEAD PRESIDENT.

The campaign upon which we are entering is of unusual character.

The Nation is passing through a great sorrow.

We feel more like mourning than disputing.

We would gladly forego all discussion that we might tarry longer at the grave of our dead President, silently studying the great lessons of his life and trying to fathom the awful mystery of his death.

But the world moves on and the living have claims.

The official head of the Nation has been murdered, but the life of the Nation remains untouched. Our great leader is dead, but the Government lives and the duties of citizenship survive. They command us and we are here.

#### DEMOCRACY'S "DEPARTURES."

In another respect this campaign is unusual.

"Unchangeable Democracy" claims to have changed—to have taken a "departure"; to have been born again; to be different and better this year than last.

They exultingly point to the fact that at their State convention they declined to compliment or in any way whatever recognize Mr. Bryan, and refused to indorse the platform on which he and they all stood last year.

For this they ask thanks and a vote of confidence. We cheerfully give them the thanks, but the confidence is another mat-

ter. We have had experience. Their performance is not new. It recalls some ancient history that excites distrust. They proclaimed their most notable "departure" in 1871, but they have been pretty regularly in the business ever since. They were then under the leadership of Clement L. Vallandigham. He was at once the ablest and most audacious Democrat Ohio ever produced.

With high-sounding phrases they resolved to accept the results of the war which had ended six years before, including the Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution, "as a settlement in fact of all the issues of the war, and to acquiesce in the same as no longer issues before the country" and pledged themselves to "bury out of sight all that is of the dead past, namely, secession, slavery, inequality before the law and political inequality," and devoted and consecrated themselves "thereafter and forever to the full, faithful and absolute execution and enforcement of the Constitution as it now is, so as to secure equal rights to all persons under it, without discrimination of race, color or condition."

Standing on such a platform there could be no more talk about slavery, secession, coercion, or "a white man's government." Thenceforth the Nation must be conceded to be greater than any State—greater even than South Carolina—and the negro must be recognized and treated, not only as a man, but as the political equal of all other men. That was, indeed, a departure; it was, in fact, a complete surrender of all there was of Democracy in that day.

It was an awful thing to bury it all at once.

No wonder it was six years after Appomattox before they could make up their minds to accept such wholesale bereavement. But, as one defeat followed another, they began at last to perceive that some things were indeed settled, and, when finally convinced that there was no other alternative, they made the doleful business as spectacular as possible.

With a great fluttering of flags and beating of drums they marched out of the graveyard into the highway of progress, proclaiming a change of heart and promising good behavior. And then, as though that condoned all the vicious past; as though, after years of persistent error, it was better to finally accept the truth, although driven to it, than to have been its

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champion all the while, they turned to the people and asked to be restored to power.

Their sublime effrontery was equaled only by the over-whelming rebuke that followed at the polls. The people were rejoiced to learn that they had confessed their sins and promised to reform, but they were not prepared to entrust them with the Government. They naturally wanted some proof of sincerity and some guarantee that a party that was so radically wrong on the great problems that had been solved would not be wrong again on other questions that might arise. They thought it well to impose a probationary period, and did so.

#### ALWAYS ADVOCATED HERESIES.

The people were wise. Thirty years have since come and gone. During this period the Democratic party has adopted and advocated every heresy, every ism, every fallacy and every evil that has appeared in American politics, and then, in turn, abandoned the same, except only the latest, which it still upholds as its present stock in trade.

Taxation of Government bonds and notes, the payment of Government obligations with greenbacks, free trade, free silver, government by injunction and open alliance with Populism and communism, coupled with a persistent and malicious violation of the Fourteenth and Fifteenth Amendments, are but a few of the many mistakes and ruinous policies and propositions to which it has given its adherence and support.

When it finally got into power it was more than mere disappointment. What it advocated in the House it abandoned in the Senate. The Wilson tariff law was the only measure of National character and importance that it was able to enact, and that brought discredit upon the Government, disaster to business and loss and misery to millions of American homes.

That statute holds a lasting place in the recollections of the people and in the history of the country as a monument to the incapacity of the Democratic party.

Its whole attempt to govern the country was a disastrous failure. It forfeited public confidence and went out of power thoroughly discredited as a public agency. It has since steadily gone from bad to worse. It has seemingly reached the point

where it is incapable of even proposing patriotic and acceptable measures.

These are harsh criticisms, but they are far less severe than Democratic leaders are pronouncing on themselves.

#### CONFESS THAT THEY WERE WRONG.

They now confess that they were wrong last year, and for years before, in regard to questions of vital character and importance that affected our financial honor, our industrial development, our foreign policies, our National obligations and our prosperity, happiness and good name as a people.

They pretended then to believe what they advocated, and, necessarily, they either did or didn't. If they did, they lacked capacity; if they didn't, they lacked sincerity. In either case they are unworthy of public confidence. But we have both cases.

Since the State convention they have been holding their county conventions, and "some have gone one way and some another;" some have adopted the State platform and rejected the National, and some have adopted the National and rejected the State; some have clung to Bryan and some have spewed him out, and some have tried to do both. This diversity of the counties has been exhibited by the States. Some have followed Ohio and some have refused to do so.

In short, they have no common agreement and no common purpose with respect to any policy or question of National character. What their next convention will declare for no man can tell; but all men know that it will be for whatever at the time may seem to give the best promise of success, without regard to whether it is consistent or inconsistent with previous declarations. They will stand by their present professions or take another "departure," as expediency may dictate.

In at least one respect all such "departures" are alike. They illustrate the want of fixed principle and purpose, and thus emphasize unfitness for public duty.

#### MUST HAVE A NATIONAL POLICY.

No party can be equal to the requirements of government in this country that is not inspired by a National policy that is the same in all the States and all the counties. So long as Democracy is one thing in one county and another thing in another county; one thing in one State and a different thing in other States, it is necessarily both incapable and unworthy, and should not have the people's favor.

A party that cannot agree with itself should not expect anybody else to agree with it; and a party that confesses that it did not know enough last year to know that free silver was a blundering folly does not know enough to rule the Nation this year; much less fit to be trusted this year is a party that was capable of advocating last year what it then knew to be ruinous, merely for the sake of party success.

But, waiving all that, it is a good rule in politics and in government, as in everything else, to let well enough alone. We disregarded that rule in 1892 and paid the penalty of four years of very hard times.

The country has no confidence in a party that is one thing this year and another thing next year, or one thing in Ohio and another thing in New York or Nebraska; and that lack of confidence—the result of years of vascillation and persistency in error—cannot be cured in a day by platform declarations and promises.

#### ENOUGH TO PRODUCE A PANIC.

It is, therefore, enough of itself to paralyze business and bring disaster for the Democratic party to carry any important election. The mere chance for it to do mischief is sufficient to produce panic.

But in addition to the moral effect of this lack of confidence, and notwithstanding its "departures" and declarations, the fact is that, as to all the great questions of the day, the Democratic party is now, as it has been, fatally on the wrong side.

It pretends to have learned wisdom about the tariff, but everybody knows it has not, and that it would not be in power twenty-four hours until its free-trade tinkering would commence. As a result, we would have at once a repetition of our experiences of 1893 to 1897. Whatever differences of opinion there may be on other points, there is none as to our prosperity. We had it under Harrison; we lost it under Cleveland; we regained it under McKinley. Every man knows that a return of the Democratic party to power could not increase it, and almost every man knows that it would destroy it. Why place it in peril?

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It is the greatest we have ever enjoyed. It surpasses comprehension. It defies exaggeration.

We have more industries in operation than ever before. We have more men employed than ever before. They are receiving higher wages and are working fewer hours than ever before.

Our farmers are producing more than ever before; they have better markets than ever before; they are richer, freer from debt and happier than ever before.

Our manufacturers are busier than ever before; they are making more and selling more than ever before. There is not an idle man or an idle business, except by choice, in all this broad land.

#### WISE LEGISLATION DID IT.

Such universal peace, universal employment, universal advancement, universal gain, universal prosperity and universal happiness never before blessed this country or any other in the history of the world.

And it didn't just happen so, either. We had the natural conditions that made it all possible, but they were not sufficient of themselves to save prosperity under Cleveland or restore it under McKinley.

Improvident, unwise and unpatriotic legislation worked our ruin in the one case, and the reverse has brought us prosperity in the other. This lesson is plain. No man can fail to understand it.

If we would maintain and continue existing conditions, we must keep the Republican party in power.

But nations, like individuals, cannot live by bread alone. We want and must have prosperity, but we must also have honor and a good name.

We must have the respect as well as the friendship of other nations.

This will be impossible unless we worthily discharge all great duties that fall upon us now. They came uninvited, but they are none the less commanding. They have brought with them new and difficult problems. It is not a question whether we shall assume these responsibilities and undertake to solve these problems. That point has been long passed. The only question now to be considered is whether we shall go on or turn back. The Democratic party tells us to turn back. It

not only assails the policies we are pursuing, but it also denies the Government's power to carry them out. This brings up the whole subject and calls to mind all the great events of the last three years.

The successes we have achieved have excited the admiration of the world. On land and on sea our flag has been everywhere victorious, and our statesmanship has been everywhere triumphant.

#### GAVE PROSPERITY TO CUBA.

We have given Cuba freedom from Spain. We have restored peace, law and order where only war, anarchy and disorder prevailed. We are waiting only till the Cubans can organize their own government, under a constitution of their own adoption, to withdraw from the island, leaving them entirely free and independent, with the single exception that they shall never become entangled with any other nation that may seek a foothold there; and this restriction has been imposed only because necessary to our protection and to guard the approaches of the isthmian canal which we contemplate constructing.

Is not all this work good and commendable in the sight of the American people? And, if so, shall we turn back or go on to the end?

We have given Porto Rico the most liberal and generous government ever provided for any Territory of the United States, and as soon as the people of that island learn American methods and ideas and show capacity for self-government, we intend most gladly to turn it over to them for their own administration.

For the first time in their history the burdens of their government are so light they scarcely feel them, and yet they see, on every hand, the opening of highways and the making of public improvements, coupled with the establishment everywhere of schoolhouses and all the distinguishing features of American civilization.

We are rapidly leading them up to the enjoyment of our institutions and our liberties. They understand and appreciate the situation, and are striving to do their full duty. They were never so prosperous, never so happy, never so full of hope.

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#### SHALL WE GO ON OR TURN BACK?

Shall we go on or turn back? Shall we complete this good work, so full of satisfaction to our people, of honor to the country, or must we stop it, haul down our flag, shut up our schoolhouses, turn the little island adrift, and while some power is seizing it, sneak off to our homes?

In the Philippines the insurrection has been almost completely suppressed. Practically the whole population have taken the oath of allegiance, and civil government is being everywhere established, to be conducted almost entirely by the natives. The governments thus established are, in all respects, more liberal than any government they have heretofore known. Individual liberty, personal freedom and property rights are secured to all, and human life is as safe throughout most of the archipelago as it is here. A great majority of the inhabitants are friendly to us and entreat us to remain and complete the work we have undertaken for their good as well as for ours.

We shall hail the day as one of deliverance from a great responsibility when we can safely entrust to the Filipinos the administration of all their domestic affairs.

We are making rapid progress in that direction. Shall this work go on or shall it stop? And if we stop, what then? Everybody knows that if we were to retire from those islands they would be immediately seized by some European power, which would rule them with far less liberality than we have practiced, and which, instead of leading them out of their weakness and darkness into the light and strength and self-control, as we are doing, would hold them in perpetual vassalage to monarchy.

Yes, these are indeed great tasks, and they are full of difficulty, but, if we meet them like men, they are also full of honor.

Who would undo the Spanish-American War?

#### VICTORIES ARE COMMON HERITAGE.

Its victories are the common heritage of the whole people, won by the valor of the men of all parties. Democrats and Republicans stood side by side in that struggle, forgetting party affiliations and remembering only that they were Americans.

They should now stand side by side for the preservation of the fruits of their victory; not alone for the territory we annexed, but also and especially for the advancement they accomplished of our good name throughout all the earth.

Our prestige and our power are now everywhere conceded. We stand easily and pre-eminently first in the council of nations. Our diplomacy, as well as our arms, played the most conspicuous and most creditable part in the great world's work just completed in China.

Who would blot out that chapter of American history? We are all justly proud of it, and yet, if the Democratic party had been in power, it could never have been written, because, under their interpretation of the Constitution, the Government would have been unable to even join—much less lead—the column of relief as it marched on Peking.

The great trouble with Democracy is inherited and radical. It is afflicted with a transmitted heresy from the doctrine of secession and State rights that makes its leaders unable to appreciate the place or the power or the duty of our Nation.

#### IS A PARTY OF INACTION.

With them the States are everything; the Nation is nothing, except only as they find power expressly delegated. When our fathers framed the Constitution they could not foresee all the great events that have since come to pass, and, therefore, our Democratic friends search in vain for some specific mention of the emergencies we have been called upon to meet. Finding nothing there written, they do nothing. It was for this reason they could do nothing to suppress the rebellion, to reconstruct the States, to abolish slavery, to foster our industries or to change our standard of values, and it was for that reason that, at the close of our war with Spain, they could go no further than the treaty of peace. That was as far as they found anything written.

The way was clear to acquire territory by conquest, because that was an undisputed incident of the power to make war, and the way was clear to take title to such territory by treaty, because that power was expressly given—but that far and no farther. At that point the path ended. There they stuck and will continue to stick—until they take another "departure."

They could do nothing that has been done in Cuba, because the Constitution was silent about Cuba. It gave no directions for such a case. They could take title to Porto Rico and the Philippines, but they could not give them government, except only as it might flow from the Constitution, which they admitted did not fit the case.

The Constitution expressly provides that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." But it doesn't say anything about islands, and hence they deny its application, and seem unable to comprehend that not only is the provision general, but that without any provision the power is inherent in every independent sovereignty to acquire a territory, wheresoever situated, and, as a necessary corollary, it must have power to govern it. And if it have power to govern it, it must govern according to the necessities of the people governed.

The Republican party has no such trouble. It believes in the Nation and believes that the National Government has power to do all any other sovereign power can do.

#### Power to Take, Hold and Govern.

We believe that we not only have power to take, but power to hold and power to govern. We have acted accordingly.

Our work has been upheld by the Supreme Court and vindicated and justified by the results of practical operation. The lines of procedure have thus been clearly marked, and law, order, prosperity, contentment and happiness, with love and loyalty for our flag, are the constantly occurring results wherever it floats.

In consequence, America is more respected for her power, her wisdom, and her humanity than ever before in all our history.

It is in the presence of all this, with all eyes turned upon us, that we are now told to turn back.

Are we to obey?

Are we now to tell the world that we have come to the conclusion that all these brilliant achievements are beyond the Constitutional power of our Government; or that we have come to doubt the wisdom of the policies we have been pursuing, and that, in consequence, we have determined to abandon the great tasks so happily begun, so successfully conducted, and so nearly completed?

And, if so, are we ever again to have the respect of anybody on earth? Could we ever again respect ourselves? Could we ever again claim a place in the conduct of the world's affairs, or expect any nation to heed our advice?

#### OUR POWER IS NOW ASSURED.

It was a great thing for this country when the Republican party restored the protective policy and established the gold standard, for, without this legislation, our unprecedented prosperity, wealth, power and happiness would have been impossible. But it was a greater thing when the Republican party asserted and established for all time that this Nation has all the power that belongs to any other independent sovereignty, and that among our powers is the power to acquire, hold and govern territory as Congress shall prescribe, without making it an integral part of the United States.

This is forcibly illustrated by our recent experience.

When the Spanish-American War commenced we had an important commerce in the far East, and we had a naval squadron there to protect it. But in that part of the globe there was no harbor or station of our own where our ships could remain, in time of war, to protect our interests, either on the land or on the water. Within twenty-four hours after the declaration of war international law closed all the ports of that part of the globe against us. The nearest American station was San Francisco; and, so far as the protection of our commerce was concerned, our navy might as well have been in the moon as there.

But instead of going home to do nothing, Dewey went to Manila and captured just what we wanted and what we shall continue to need more and more as time passes. Are we to hold it and govern it, or are we to profess lack of power and abandon it, and when another war comes be again where the last overtook us? If so, we may find ourselves at war next time with a power that has not islands or harbors in the Orient that we can capture. In that event we would have to retire on San Francisco or Hawaii with our navy and thus leave our commercial interests in that part of the world unprotected.

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The thought of such humiliation should be enough to vindicate all we have done. Except only the Democratic party, nobody denies our power—with everybody else it is only a question of policy; and what policy teaches is plain to every student of public affairs.

These islands are not only just what we needed, but they have come to us at a most opportune time.

#### TO FIND MARKETS FOR SURPLUS.

The greatest business problem with which American statemanship now has to deal is that of finding markets for our rapidly-increasing surplus products, and the greatest field for the development of new markets is in the Orient. Our trade there is growing by leaps and bounds. If we are wise, we can increase it almost indefinitely; but as it grows, the necessity increases to maintain the prestige of our position and all the advantages upon which it depends.

The value of the Philippines does not depend on their resources, or on the amount of their trade, any more than the value of an isthmian canal will depend upon the amount of toll that can be collected.

Great national and international enterprises and movements are not to be measured by dollars and cents. We do not expect to ever collect one dollar of profit in money from either Porto Rico or Hawaii; and yet, their value to us is beyond calculation. The one is essential to the command of the Caribbean Sea, and the other is the outpost that protects our Pacific coast.

What these islands are to us here on this side of the globe the Philippines are to us yonder on the other side. That is not all. Whether we like it or not, we have become a world power and must help do the work of the world. We can not confine ourselves to this continent, and we should not if we could. We are destined to come and go to and fro throughout the earth. Let us realize and appreciate what we are and are to be.

This is the golden age of the Republic. Our exceptional blessings of strength and wealth and honor have not been given to us for luxurious enjoyment, but for conscientious use in the great fields of opportunity that lie about us.

The world is growing better, but millions await in darkness the light and liberty we only can give. Our good name, our honor, our self-respect, our self-interest and also our duty, all alike, command us not to turn back, but to go forward. The way to go forward is to re-elect Governor Nash.

#### GOVERNOR NASH MERITS THE HONOR.

In every sense he personally merits the honor. He was a gallant soldier for the Union. He has been a steadfast upholder of the doctrines and policies under which our National greatness has been developed. He has given the State a clean and efficient administration. He is the representative in this contest of the policies of President McKinley. His re-election will be the best return blow we can give to the cowardly crime of anarchy. It will strengthen the arm and gladden the heart of that splendid American upon whom the mantle of McKinley has fallen; and this we should gladly do. Theodore Roosevelt is singularly well equipped for his great office. He is broadminded. He is progressive. He is able. He is experienced. He is patriotic. He has a spotless name and his integrity is irreproachable. He has unselfishly consecrated himself to his work. He follows in the footsteps of McKinley. He is his worthy successor. He is executing his policies. Under his guidance no harm will come to our country. The whole American people owe him their support, their confidence and their encouragement. But above all other States Ohio. the home and the last resting place of McKinley, should approve his work and honor his memory by indorsing his successor. Such a verdict in November will quicken the spirit of Americanism and strengthen the courage of all who have to deal with the great problems of to-day and to-morrow.







# SPEECHES

NOMINATING

# SENATOR FORAKER

FOR RE-ELECTION

TO THE

SENATE OF THE UNITED STATES

DELIVERED IN THE

SENATE AND HOUSE OF REPRESENTATIVES
OF OHIO

January 14, 1902



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## Speech of Hon. W. G. Harding in Senate of Ohio, Nominating Hon. J. B. Foraker for United States Senator.

Mr. PRESIDENT:

It is a very agreeable duty to present to this body the name of the Republican candidate for re-election to the United States Senate, the Honorable Joseph Benson Foraker. I am aware, Mr. President, that it violates accepted usage to name one's candidate in the very first sentence uttered. but, sirs, I could no more withhold his name than a glad courier, coursing homeward with the tidings of victory, could muffle his triumphant note. At the very most, any presentation uttered here to-day is but an echo of a nomination already thrice made. Senator Foraker was re-nominated first by the United States Supreme Court, when over the protests of the pessimistic unbelievers in American sovereignty that body gave its irrevocable O. K. to his plan of colonial government. was again re-nominated by the 1901 convention of the triumphant Republicans of Ohio when they wrote their unqualified endorsement of him boldly in the party platform and made his re-election the shibboleth of a victorious State campaign. was the third time re-nominated, when on last November 5th, under his all-conquering and unconquerable leadership, the Republican hosts were marshaled in battle array. With aching hearts echoing a real national sorrow, but more resolute than ever in devotion to an undying principle, with the junior Senator sounding the slogan of "Let Well Enough Alone," the million rulers of this great Commonwealth fought the decisive political battle of 1901.

The whole Nation looked on and awaited tidings of that friendly conflict, because a Republican victory in Ohio meant an unimpeded highway in the march of destiny and from the very moment the songs of victory were sung the great American hosts have been marching on, tramp, tramp, tramp, irresisti-

ble in the peaceful commercial conquest of the world, incomparable in rearing new standards of liberty and spreading heaven-sent blessings of new-world freedom. So, I repeat, in that battle, thrice as important as we have yet realized, there was the third re-nomination, for wherever the conflict was fiercest, wherever a line wavered, wherever courage and dash and leadership could turn the tide, there gleamed the defiant crest of the inspiring Foraker, who charged on and on, until the day was grandly won. That day Senator Foraker was re-nominated, aye, he was re-elected, by the people of Ohio, and this body has only to make formal register of public opinion so emphatically expressed.

It was about as near unanimous as it could well be, practically an election by the people, and were it not for deference to old-time custom, it would seem in order, Mr. President, to move a suspension of the rules and re-elect by acclamation. Such a procedure might deny the minority members of this body of a wholly perfunctory devotion to party, but it would give them a share in paying a deserved tribute to one of Ohio's most gifted and most brilliant sons.

It is a great office, Mr. President, to fittingly represent the splendid State of Ohio in the United States Senate which is to-day the greatest political body in the whole world. In real brains, in admirable dignity, in the sober-mindedness which is the very bulwark of popular government, in able men and lofty statesmanship which are at once the essentials and the guaranty of the Republic, it is a body without equal in all political development. In such a body Ohio is exacting in her requirements. This is a State of no less a giant than Salmon P. Chase. This is the State of the martyred but ever-memorable Garfield. This is the State of that noble old Roman. Allen G. Thurman. This is the State of the grand old John Sherman. Above all, this is the State of the beloved, the inspired and noble William McKinley. There is something in our soil indigenous to the nurture of Presidents. We have raised lofty standards here. Dignity alone will not suffice. Wealth alone will not enlist confidence or approval. Brilliance of mind, unfortified by commanding honesty, will not recommend. The sturdy citizenship of Ohio, which is a century's fruit from the seed planted by the tide of western immigration which poured through the gateway of the Alleghenies to build the industrial empire of the West, demands a true representative of its own stalwart type. Measure him as you will, Senator Foraker meets every requirement. He had his humble beginning in the Highland hills. The dash, the bravery and all-conquering spirit which have characterized his life won him distinction as a soldier.

The fairness and justice so essential in lofty statesmanship won him favor on the bench. Natural leadership, inherent in greatness, made him a magnetic and winning political general of the Republican army in Ohio, and in the gubernatorial chair he developed the executive ability and the breadth of statesmanship which left a brilliant record behind. In one term in the Senate he has proven himself cast in the majestic mold of the mighty men of the Nation, he has won his way to national fame and endearment, and the end may not be yet. He led the party of progress and expansion in facing the mightiest problem of the Republic. The rescue of the Union was heroic self-preservation, but nothing less than the flaming torch of highest statesmanship could blaze the way of colonial expansion. A century ago the mighty forefathers reared the pillars to the imperishable temple of the Republic and lifted the standards of newworld liberty, but the mightier men of to-day, grown to generous giants in a hundred years of unexampled heritage, are striding forward with the dear old banner of American freedom and bestowing their legacy by lighting the mission-fires of American civilization and American progress, fulfilling the God-given purpose of a nation of peace and advancement. so tremendous a task the clear and creative mind and the master hand of Senator Foraker have left an indelible impress, and grand old Ohio, this Commonwealth of liberty lovers and progress worshippers, gladly yields his services to the expanded nation to complete so great a task.

I believe, Mr. President, that the Republican party makes great men and great men make the Republican party just as the all-conquering French army made Napoleon and Dessaix and Murat and Nev imperishably famous at Marengo and Austerlitz, and the great Napoleon and his marshals made the French army great, and together they turned the tide of European history. The great Republican army has an incomparable array of grand marshals to-day made great by them and making them great, and first among them all, side by side, and commissioned from Ohio, are the knowing and trusted Hanna and the brilliant and admirable Foraker. Someone has said, in the harmless turbulence of contention which is proof that there is no stagnation in the stream of our politics, that both together ought not to be too big for one State. Let us rather believe that they are too big, and that both are so great they belong to the Nation. And I assume to say it, because it ought to be said, to-day we proudly recommit Senator Foraker to National service, and two years hence we will just as gladly say, "Here's Senator Hanna, too, Ohio 'knows her business."

We will record to-day, Mr. President, Ohio's unstinted devotion to a fearless, capable and brilliant public man. Let us formally make expression in the highest manner of Ohio's confidence in the courage and ability of a really eminent Republican who has wrought great things and has not reached the zenith of a notable career. Let us write official approval of an inspiring and always unfaltering Ohio leader, who lifts the head of a real statesman above the clouds of factional storm, where in the clear sunlight he can look upon a million of Ohio voters who are proud to recommit him to the services of the Nation. I repeat, Mr. President, and present the name of Senator Joseph Benson Foraker.

## Speech made in the Ohio House of Representatives by Hon. F. B. Willis, in presenting the name of Hon. J. B. Foraker for U. S. Senator.

MR. SPEAKER AND GENTLEMEN OF THE HOUSE:

We must to-day elect an active, progressive, broad-minded man, because this is a progressive, active age, teeming with great problems. The period which has expired since Washington sat in the Presidential chair has seen more of progress in the development of facilities for transportation, communication, manufactures and agriculture than were seen from the time Augustus won the crown of the Cæsars down to the adoption of the Constitution of the United States.

Great inventions and discoveries have become so numerous as scarcely to excite comment. Not only have we harnessed Niagara and made it minister to the wants of man, but we have tamed the lightning and made it carry our burdens, send the messages of the loves, and hopes, and fears of the human heart, and turn the wheels of 10,000 busy mills. While we are lost in astonishment at the wonders of liquid air, and our ears are being ravished by the mellifluous tones of the human voice forever preserved in the cylinders of the phonograph, we are amazed to receive messages from across the seas by wireless telegraphy. The inventions of to-day are made obsolete by the discoveries of to-morrow. The sickle gives place to the harvester, and the stage coach to the express train.

So it is in every line of human activity; the forces of nature are ministering to human wants as never before. In this great forward march of the world's progress our Nation is at the head of the column. A century ago we were scarcely known to international affairs—"there were none so poor to do us reverence"—now we sit at the head of the council table of the nations; our influence is felt wherever civilization is known;

our "morning drum-beat is heard around the world, and the strains of our patriotic airs, keeping company with the hours, encircle the globe." And be it known that wherever our flag floats and wherever our civilization extends, they mean the same as they always have meant; extension of power does not mean abatement of principle.

For years people have looked forward to the time, pictured in the inspired vision of prophecy and poesy, when "they shall beat their swords into plowshares and their spears into pruning hooks; nation shall not rise up against nation, neither shall they make war any more"; when "the war-drum throbs no longer and the battle-flags are furled in the parliament of man, the federation of the worlds." In the great peace conference, which was the outgrowth of this sentiment, our country took the lead and brought about the only thing of real value, the permanent international court.

Our products now find market in the four quarters of the globe. and this increased demand furnishes remunerative employment to the workers in our busy mines and mills and meadows. Fifty years ago we were told that we could not become a manufacturing nation; yet we are to-day sending locomotives to England, and steel rails to Australia, and bridges to Africa and Russia, and hosiery to Germany, and even coal to Newcastle. Of the total annual iron product of the world, 50,000,000 tons, we produce 16,000,000 tons. The total cotton product of the world is 12.000,000 bales; of this we produce 10,000,000 bales. We have double the coal area of the balance of the world. We send to the starving natives of Europe every year 200,000,000 bushels of corn and 100,000,000 bushels of wheat, and 18,000,ooo barrels of flour and 2,000,000,000 pounds of meat products. The balance of trade is \$2,000,000 per day in our favor. The things Europe buys from us she must have; what we buy of her we can get along without.

With the example of the glorious past and the inspiration of a promising future, let us turn to Ohio's part in this gigantic drama. Her fertile fields and rich mines have aided largely in the industrial growth of the Nation, and her sons have shaped the destiny of our country in every great crisis.

At Perry's victory and the Thames they won the second war for independence and decreed for all time that the United States were not a province of England or France. They were with Scott and Taylor among the mountains of Mexico and waved Old Glory in triumph above the halls of the Montezumas. On every battlefield from Bull Run to Appomattox they made their breasts a barricade between their country and its foes; they were at San Juan and El Caney, and they were with Dewey when, in letters of fire, he was writing on the sky the message of destiny; nor should we forget the thousands equally brave who were eagerly waiting in the fever-stricken camps of the South. After all, greatness depends not so much on natural endowment as on the achievements of men.

"What constitutes a State? Not high raised battlement or labored mound, thick wall or moated gate; not cities proud, with spires and turrets crowned; not bays and broad-armed ports where, laughing at the storm, rich navies ride; not starred and spangled courts where low-browed baseness wafts perfume to pride. No! Men, high-minded men, with powers as far above dull brutes endowed in forest, brake or den, as beasts excel cold rocks and brambles rude; men who their duties know but know their rights, and knowing, dare maintain."

High on the roll of the Nation's honor, in letters of shining light stand the names of Grant and Sherman and Sheridan and McPherson, and there they will stand forever. Not only did Ohio furnish the leaders of the Army, but she also furnished the civil chieftains of that and later times. There are Stanton and Chase, and Wade and Giddings, and Sherman and Thurman, and Hayes and Garfield, and McKinley, whose lives are a fragrant memory and a sweet benediction to us all.

With such an heroic past, in such a State, in such a Nation, and at such a critical period in the history of that Nation, when new and untried conditions are surrounding it, we must choose as Senator a man of the people; a man who knows the thoughts and purposes of the common citizen—one of our own number; a man of large experience and broad views; a constructive statesman with powers commensurate with the problems we

have to solve; a man whose patriotism is boundless as the seas and whose integrity is spotless as the stars; and a man who believes in Republicanism; in the Republicanism that said our Government had constitutional powers to prevent the spread of slavery and preserve its own life in time of war; in the Republicanism that paid the National debt when the war was over; that protected the American farm and mine and mill; that maintained "a dollar as sound as the honor of the Nation and as stainless as its flag." The man we elect must have these qualifications, and such a man I rise to nominate.

Born on a farm in Highland County, his early opportunities were not the best. He was educated in the university of nature. by field and running stream, by meadow and forest and bird and budding flower. Descended from parents who had left the older States because of their detestation of slavery, he hated slavery and secession and loved freedom and the Union. Though vet a mere boy, he understood the gravity of the hour when Sumter was fired upon. The Union must be preserved; we were "to nobly save or meanly lose the last best hope of earth." Understanding this, he went into the army one of the youngest soldiers that ever fought for the flag. He was a soldier in the ranks of that splendid army that unfurled the stars with Hooker "above the clouds" and swept like a thunder-storm up the heights of Missionary Ridge; he was with Sherman at Dalton and Resaca and Kenesaw; he fought with the gallant McPherson; he helped crush the heart of the Confederacy at Jonesboro and Atlanta; he marched through Georgia from Atlanta to the sea, and bore to a waiting Nation the glad tidings of the fall of Savannah. By his daring ride as the messenger of General Slocum, he saved the Union left and made possible the capture of Johnston. The same energy, ability, courage and gallantry distinguished his later careers as lawyer, judge and governor.

It is no disparagement to the other great men who have occupied the gubernatorial chair to say that no cleaner, abler or more courageous man was ever governor of Ohio than Joseph B. Foraker.

He stands in the United States Senate to-day the peer of all and the acknowledged leader of his party in foreign affairs. In 3 3. 1

a difficult period he has shown constructive statesmanship of the highest order. While others wavered, he stood firm in the United States Senate and met the assaults of the enemy and expounded and successfully defended the constitutionality and moral rectitude of the action of our Government toward its new possessions. His master hand shaped the legislation and framed the policies that have now been upheld by public approval and the decisions of the Supreme Court; he has measured up to the responsibilities of the hour; he "has been weighed in the balance and *not* found wanting." Read his speeches on the Constitution; their logic is that of a Supreme Court decision; yet remember that his speeches and reports were made before the Supreme Court had passed on a single question.

Joseph B. Foraker is known wherever the flag floats; both in the States and on the islands of the sea; his eloquence has been heard on every great public question in the last quarter of a century; with the flaming sword of his oratory and his battle-axe of logic, he has put to flight the Tillmans and the Altgelds; for twenty years he has been the target for the shafts of malice; the quiver is empty and he stands unharmed.

In the name of the old soldiers, living and dead, his comrades in arms; in the name of the country he loves and the flag he fought to defend; in the name of the people he has so splendidly served, I nominate this gallant soldier, this profound constitutional lawyer, this fearless statesman, this leader of leaders, this son of the common people of Ohio, Joseph B. Foraker.

# Speech seconding the nomination of Hon. Joseph B. Foraker for U. S. Senator, delivered in the Ohio House of Representatives by Hon. Charles F. Williams, of Hamilton County.

Mr. Speaker and Gentlemen of the Seventy-fifth General Assembly:

It is with profoundest satisfaction that on behalf of Hamilton County I have the honor and pleasure of seconding the nomination of her glorious son to a seat in the Senate of the United States.

It is surely using double superlatives, or, to use the old saying, "bringing coal to Newcastle," to attempt to characterize or describe the natural qualifications and high personal attainments of the gentleman from the "Queen City of the West" for this particular office.

Cincinnati presents for the consideration of this honorable body two candidates for the distinguished honor of representing the great State of Ohio in the United States Senate. Each is justly proud of his high and sterling character; but without in the least detracting from the reputation of the Hon. Charles W. Baker, who is a personal friend of mine, I am in favor of the old maxim which applies equally well in politics, "One good turn deserves another." Let us also adhere to that slogan of the Republican party made famous in the last campaign, "Let Well Enough Alone," and therefore to make our choice and voice the sentiments of this Assembly I most sincerely second the nomination of the Honorable Joseph Benson Foraker for United States Senator.

It is unnecessary to add any encomium upon the high character of Mr. Foraker. He needs none; it stands before us and speaks for itself. It is above criticism; beyond compare. The Republican citizens of Ohio by their delegates to the last State

Convention held in this city have given his régime the stamp of their approval by their unanimous selection of his return to the United States Senate. It seems, therefore, that even if not our inclination, we have nothing to do but execute the will of the people and return the Senator to that high office which he so ably fills.

A man is known, Mr. Speaker and fellow members, best in the place of his abode and any endorsement by the citizens of that place is an honor greatly to be desired. How much greater the honor and weight to be given to that endorsement and recommendation when it is of the highest order and without any restriction whatever.

It is, therefore, Mr. Speaker and gentlemen of this Assembly, with great pride that on behalf of his home county and city and of the whole State I extend our unqualified recommendation and endorsement and most heartily second the nomination of Honorable Joseph Benson Foraker to the United States Senate.

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### Speech of Hon. W. E. Guerin, Jr.

Mr. Speaker and Members of the Seventy-fifth General Assembly:

Scarce one hundred years have elapsed since from the wilderness, the Northwest Territory, was carved this magnificent State of Ohio. Other States from this same territory were created: some have since become famous for one reason and some for another, but none have excelled, nor even equalled. the wonderful march of progress and development attained by Ohio. It was Ohio which furnished the brains to direct upon the fields of battle and a large proportion of the power to enforce and preserve inviolable the bonds of union existing between these United States. Since that time, and in fact since the time of the birth of the Republican party, it has been Ohio which has furnished the leaders of our Nation who have directed the affairs of State, and from what was then an insignificant beginning, largely through the efforts of our Ohio statesmen, we to-day stand the happiest, most powerful and the most prosperous people in the world. In the past forty years Ohio has furnished the majority of our Presidents and the leaders of our party on the floor of the United States Senate. What citizen of our State. I care not what may be his political affiliations, does not thrill with pride when he points to the proud achievements of the Republican party of Ohio in the affairs of the State and Nation during that time. The conduct and success that have blessed the Republican party of Ohio have instilled into our intelligent citizenship a degree of confidence which has made a Republican defeat, in a question involving State or National matters, almost impossible. Let us then, my fellow citizens, preserve and maintain the high and proud position our great State holds in the councils of the Nation. You will never have a greater opportunity to assist in this than you have to-day in choosing a person to succeed Ohio's able and distinguished senior Senator.

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For the second time within the past few years the General Assembly of this State meets in session and a majority of its members cast their ballot in favor of the election to the United States Senate of one of the noblest and most able men Ohio has ever produced. For the second time he receives the unanimous endorsement of his party, a compliment and honor only given after he had been thoroughly tried. You have already been told of the rise of this remarkable man-how he at an early age entered as a private the Union army and tendered not alone his service, but his life to the cause of his country; how he was repeatedly promoted for gallantry in action; how he studied law, was admitted to the bar, forged to the front rank of his profession, was elected and served with fidelity and honor as a judge; how he was nominated and twice elected Governor of this State; of the wonderful success of his administration; how he was by his party unanimously elected to the Senate of the United States. He took with him to that high office all of his natural ability and the wide experience received from the positions of honor and trust he had theretofore occupied. He took his oath of office and at once entered upon his duties as Senator with that same degree of conscientious application to duty which has characterized him in every other trust he has undertaken. He immediately took a position as a leader in that body, and his record, so familiar to us all, has been one which has inspired the business man with renewed confidence in his judgment, has inspired the laborer, the farmer, and the artisan with renewed confidence in his honesty and of his everpresent desire to benefit and assist in all possible ways those who, not blessed by the Gods of Fortune, must earn their bread by the sweat of their brows. His record is one of which he may not alone feel proud, but which is dear to the memory of us all. Let us then send him back to Washington as his own successor, there to serve his country and his State, and with his colleague, that able, successful and respected statesman, the Hon. Marcus A. Hanna, to win fresh laurels for himself and by the exercise of his sound judgment, and through his honesty of purpose, and by his broad experience, to assist as he will in lifting up and benefiting all of the peoples inhabiting such lands as

lie beneath the Stars and Stripes—an honor to himself, his country and his State.

Sir, I take pleasure in seconding the nomination as United States Senator, to succeed himself, the Honorable Joseph Benson Foraker, of Hamilton County.

### Address of Hon. L. F. Cain.

Mr. President, Gentlemen of the General Assembly, Ladies and Gentlemen:

Just six years ago the members of the Sixty-Ninth General Assembly of Ohio, by the unanimous vote of the Republican members, elected Honorable J. B. Foraker as the successor of Honorable Calvin S. Brice, in the United States Senate.

After the history of the succeeding six years has been written, we are asked to review it, classify Senator Foraker with reference to the part he has played and accord to him the plaudits of "Well done, faithful servant," or condemn him with the seal of our disapproval.

His election as Senator was an approval of his history as a poor boy, a faithful student, a trusted lawyer, a gallant soldier and efficient Governor.

In the Senate new and broader fields were opened. Questions of grave import were just then in a nascent state. The country had just passed through four years of the greatest depression and misery ever known in times of peace and scarcely surpassed in times of war.

Populism and free silver fanaticism were sweeping across the western plains with the fury of a Kansas cyclone; the patent Democratic free trade nostrums had well nigh killed the patient, and drastic and prompt action was imperative.

Senator Foraker was in the front ranks of those who proclaimed large and speedy doses of the "gold cure" for the great patient to restore him to health and copious draughts of potations of American protection "to keep him healthy and active." Congress prepared the machinery; President McKinley touched the button and the world knows the result.

No sooner were these matters settled than the clatter of strange hoofs and the rattle of strange wheels were heard. Above the din and confusion could be heard the groans of children and women dying of tyrannical abuse and hunger and men fighting to the last ditch for freedom and liberty. Some said it was a family row among our neighbors and while we might sympathize with the weak and down-trodden we must not interfere.

But it was Senator Foraker and not Professor Marconi who made the first practical test of wireless telegraphy. He put his ear to the ground, he heard those clattering hoofs, rumbling wheels and agonizing cries. He had heard them in 1861. He said it meant war. He stood on the Senate floor on the 29th day of March, 1898, and introduced those memorable resolutions that electrified America and sent consternation to the heart of Spain.

The war came on Foraker's scheduled time. The train of American young manhood and patriotism started at six A. M. and in one short hour had reached the first station on the Foraker line, "that the people of the Island of Cuba are, and of right ought to be, free and independent." At eight o'clock the second station, "the recognition of the Republic of Cuba was reached," and at nine A. M. the third station was reached and the conductor stood on the platform and said to Spain, "Withdraw your land and naval forces from Cuban waters;" at ten A. M. the last station was reached, the President had put the army and navy of the United States in the field to see that all orders were obeyed; at eleven A. M. the Spanish fleets were at the bottom of the ocean, her armies were prisoners, Old Glory was proudly floating over Cuba, Porto Pico and the Philippines, and at twelve o'clock, high noon, the boys were called home from labor to refreshment.

As in all matters of international significance, grave questions arose for consideration. It was here that the world first learned the true worth of Senator Foraker. His comprehensive knowledge of constitutional and international law amazed the sages of jurisprudence. The bulwarks of the sticklers for constitutional and international technicalities looked like the fabled china shop after a few of his masterly attacks. For hours he stood upon the floor and withstood the best minds and

thought of that great body of men and subsided only when every

foe was vanquished.

Senator Foraker's source of greatest strength is his loyalty to his friends. No one knew this better than our beloved President, and while often differing on minor details, President McKinley leaned harder on the arm of Senator Foraker than of any other for assistance and guidance in the solution of how to manage our new possessions.

Every man has a laudable ambition to see his services appreciated by those for whom they were rendered. Senator Foraker certainly has had this satisfaction. He maintained the policy of independence for Cuba, and Cuba has elected her own President and as soon as he selects his official family and gets in shape for housekeeping, Uncle Sam will bring the boys and their playthings all home and we will only play in Cuba's backyard on invitation.

As chairman of the committee on Pacific Islands and Porto Rico, he framed the policy of the Porto Rican Islands. brought order out of chaos, prosperity out of want and distress: and who would not envy Senator Foraker his merited gratification when Señor Barboso, who was sent as a representative of his country, said at a banquet at the St. Nicholas, in Cincinnati, the following: "We love Senator Foraker. He is the father of liberty in Porto Rico, the father, I might say, of our new country. This great statesman, this citizen of Cincinnati. this man whom you all know and love so well, is not as well known personally in Porto Rico as he is here, but he is just as well known by reputation, and he is just as well loved. He framed and introduced a bill establishing civil government on the Island. We had been under military government for four hundred years. The judiciary system was the system of favoritism. The Spanish governor was absolute. What he desired the courts did. There was no liberty of press or pulpit, no liberty of person or of property. The people were merely the unwilling children of a very cruel and thoughtless parent.

"Senator Foraker restored civil government. Ah, my friends, you who have never known what it is to live under a military

government, do not and cannot appreciate the joy that was ours when the Foraker bill was passed and civil government restored. In that bill the great Ohio Senator met the ideas and the requirements of the people of the Island in most essential particulars. Previously, the Republican party of Porto Rico was organized, and the first platform adopted in March, 1899, called for the very things that were afterward granted in the Foraker bill. Is it any wonder that we love your Senator? Is it any wonder that we hope some day to be allowed to vote, and then be allowed to vote for him for President of the United States?"

They love Foraker in Porto Rico because he was true to them. We love him in Ohio for the same reason, and I say now that stranger things have happened than would occur if we were to take the Señor at his word and grant him his desire.

It is said of all the boys born in Porto Rico during the last two years, all but three have been named Foraker; one is called Dewey; one is called Schley and one is called Grover; but there is not a Bryan or a Johnson to be found on the entire island, and every girl born for the same period has been named Hanna, so they have a Hanna-Foraker delegation any way you take it.

But, gentlemen, he has not only been true to the interests mentioned, but he has been true to the boys who have fought and are still fighting on the other side of the globe. I had several letters from those dear boys during my campaign. They all said stand true to the soldier and soldier's friend, J. B. Foraker. One letter from my own boy, who has been a soldier for nearly four years and who is now in the Philippines, said to me, "I hope you will be elected to vote for Senator Foraker, for the man who said, 'No rebel flags will be surrendered while I am Governor,' will also be the man who will say no Union flag will be taken down from where the boys have placed it in Porto Rico and the Philippines while I can raise my voice as Senator."

So, gentlemen, on behalf of the people of the great State of Ohio, and the people of the United States of America, Porto

Rico and the Philippine Islands; on behalf of the boys who are today defending our honor and protecting Old Glory on the other side of the globe; in response to the dying wishes of the boys who fell on that magnificent charge up Santiago's sandy slopes, and the brave boys of the gallant Ninth, who fell at the gates of Tien-Tsin, and in response to every drop of the blood of our martyred President, I second the nomination of their friend and our friend, the Honorable J. B. Foraker.

## Speech of Acceptance of Senator Foraker, January 15, 1902.

GENTLEMEN OF THE GENERAL ASSEMBLY:

I would not appear insensible to this occasion if I could, and I could not if I would. It is a great honor to be elected by the legislature of Ohio to a seat in the Senate of the United States. It is a greater honor still to be re-elected to that high office. If anything can be added to that honor, it has been supplied in this instance by the fact that this re-election is not only by the unanimous vote of the Republican representatives in this General Assembly convened, but also by the unanimous vote of the representatives of the party in both State and County Conventions assembled.

I have my fair share of enemies and detractors, as every other public man has had since the beginning of the Government and will have until the end of time. It is not pleasant to have enemies, but it is a great satisfaction to be able to set down over against all they have said or may say the answering fact that of all the many honors it has been my good fortune to enjoy at the hands of the Republicans of Ohio, every one, without a single exception, has come to me with this same unanimity of expression and most of them by acclamation and without solicitation.

I cannot sufficiently thank the Republicans of Ohio for such long continued, exceptional and unprecedented marks of their confidence and good will. I can assure them, however, that I shall earnestly strive to merit such uncommon honor.

Since I stood here six years ago on a similar occasion a great deal of important history has been made. At that time the country was suffering from universal business paralysis and prostration. There was a serious controversy going on as to the cause and the remedy. All agreed that prosperity should be restored, but there were wide differences as to

methods. All then recognized that the first great work of the immediate future had relation to our economic conditions. Time has passed. The record has been made. It is before you. It speaks for itself. My contribution may have been small, but whether much or little, it went to swell the grand aggregate of effort by which the greatest industrial wonders of all time have been wrought. Long vanished prosperity has returned, and never in the history of the world has there been anything like what we now enjoy.

The great industrial problem of Europe at this time is not how to sell in our markets, but how to protect their own from our commercial invasion; and one of our greatest industrial problems is how to go on indefinitely collecting the stupendous balances of trade in our favor without bankrupting all the rest of the world, and thus destroying the customers we are acquiring.

The floods of gold that are pouring in upon us are rapidly making us the great creditor nation of the earth, so that henceforth we shall hold the securities of other peoples and collect interest from them on their obligations, instead of, as heretofore, paying them tribute on ours.

If nothing more than this had been accomplished, it would be enough to entitle all who participated in the good work to the gratitude and the plaudits of the American people.

But, great as have been these economical achievements, others there are, and greater. Unexpected emergencies have arisen and unforeseen responsibilities have been devolved upon us. This is not a proper time for their discussion, or even for their enumeration, but it is a fitting opportunity for the statement that all emergencies, whether of peace or of war, have been successfully met and all responsibilities have been faithfully discharged.

Grave questions of a vital character relating to our power to acquire, hold and govern territory according to the necessities of the people governed have been settled for all time in favor of the authority of the United States. As a result we are to-day more than ever before in our history a world power in the fullest meaning of that phrase. In consequence the term

for which you have now re-elected me will doubtless be distinguished for new problems of grave importance and far-reaching consequences.

The inter-oceanic canal, our merchant marine, our navy, the government of our insular possessions, our relations with Cuba, and especially our trade relations with other commercial countries, will demand and must receive the highest and best thought of the legislative mind.

In all I have done under the commission I have been holding I have sought faithfully, zealously and patriotically to worthily represent the people of this great State.

As to these great questions of the future, I can only promise to go forward in the same spirit and with the same purpose. I know your Americanism, your patriotism and your wishes, and shall strive, honestly and earnestly, to represent your views.

In closing, I cannot refrain from recalling that when I stood here six years ago another graced the occasion with his presence who is now gone from among us forever. He was at that time just retiring from the governorship of this State, but we all knew that the higher honor of the Presidency awaited him and that his most distinguished services yet remained to be rendered. But how little we knew of what was soon to be unfolded. He, whom we then only claimed, all the world claims now. Not only as a great President, but as the gentlest and most lovable type of humanity is the place in history that will always be held by William McKinley. His life and his death were alike surpassingly noble.

I call attention to his career at this time, because it is an impressive admonition to us to be patient, forbearing and faithful in all the relations of both public and private life.

We cannot any more have the benefit of his helpful leadership, but it is just cause for the most sincere congratulation that we find one altogether worthy to be his successor in the person of Theodore Roosevelt. He may be less patient and more aggressive, but in intellectual endowment, in scholarly culture, in broad-minded Americanism, in integrity of character and in patriotic purpose he has never been excelled by any occupant of the White House. I am sure I hazard nothing in predicting for his administration the most unqualified approbation of the American people.

Under his guidance we shall continue to go forward in the achievement of prosperity for the American people and glory and honor for the American republic.

I account it a great piece of good fortune to have been identified as your representative with the administration of William McKinley. I account it another piece of most singular good fortune that under the command you now give me I am to have the privilege of being also indentified with the administration of President Roosevelt.

For this great honor I can only thank you, but in the name of all these considerations, I assure you that I do that from the bottom of my heart and with a determination to spare no effort to meet your just expectations.











# The Philippine Treason and Sedition Act.

## SPEECH

OF

# HON. J. B. FORAKER,

IN THE

## SENATE OF THE UNITED STATES,

February 6, 1902.

WASHINGTON, 1902.



### IN THE SENATE OF THE UNITED STATES,

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February 6, 1902.

### The Philippine Treason and Sedition Act.

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of War in response to a resolution of the Senate of the 31st ultimo. The Chair thinks it is in response to the resolution offered by the Senator from Texas [Mr. Culberson] in relation to the punishment of certain crimes, treason, etc., in the Philippine Archipelago. It will be printed and referred to the Committee on the Philippines.

Mr. CULBERSON. It appears to be in answer to a different resolution from the one I introduced, but I presume that that is

the proper reference.

The PRESIDENT pro tempore. The Chair also presents a communication from the Secretary of War in answer to the resolution of the 22d ultimo transmitting "copies of all suggestions, statements, criticisms, and correspondence between the War Department or any official thereof and any person or corporation relating to the customs tariff affecting the Philippine Islands which culminated in the tariff adopted by the Philippine Commission September 17, 1901." It will be printed and referred to the Committee on the Philippines.

Mr. RAWLINS. Mr. President, if there is no objection, I should like to have the report from the Secretary of War as to

the law passed by the Philippine Commission read.

The PRESIDENT pro tempore. What is returned is simply a

printed law, I take it.

Mr. PATTERSON. The answer must necessarily be a very short one as to whether that law is in fact a law, or is an alleged law. We might just as well have the information now from the desk.

The PRESIDENT pro tempore. The Secretary will read it.

Mr. TELLER. Let the resolution be read.
The PRESIDENT pro tempore. The entire law is sent in by the Secretary of War in answer to the resolution. What will the Senator have read?

Mr. FORAKER. Let the entire communication be read.

The PRESIDENT pro tempore. The communication will be

The Secretary read as follows:

WAR DEPARTMENT, Washington, February 4, 1902. SIR: In response to the resolution of the Senate dated January 31, 1902.

reading:
"Resolved, That the Secretary of War is directed to inform the Senate if
the following has been passed by the Philippine Commission, and is being
enforced as a law in said islands, and persons punished thereunder, and the
date of the promulgation of such order, namely:

(No. 292. By the United States Philippine Commission.)

"Sec. 2. Every person owns allegiance to the United States or the government of the Philippine Islands and having knowledge of any treason against them, or either of them, who conceals and does not, as soon as may be, disclose and make known the same to the provincial governor in the province in which he resides, or to the civil governor of the islands, or to some judge of a court of record, is guilty of misprision of treason, and shall be imprisoned not more than seven years, and be fined not more than \$1.000."

"Sec. 8. Every person who shall utter seditions words or speeches; write, which, or given the sourcinus libels against the Government of the United

publish, or circulate scurrilous libels against the Government of the United

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States or the insular government of the Philippine Islands, or which tend to disturb or obstruct any lawful officer in executing his office, or which tend to instigate others to cabal or meet together for unlawful purposes, or which suggest or incite rebellious conspiracies or riots, or which tend to stir up the people against the lawful authorities or to disturb the peace of the community, the safety and order of the government, or who shall knowingly conceal such evil practices, shall be punished by a fine not exceeding \$2.000, or by imprisonment not exceeding two years, or both, in the discretion of the

"SEC. 9. All persons who shall meet together for the purpose of forming, "SEC. 9. All persons who shall meet together for the purpose of forming, or who shall form, any secret society, or who shall, after the passage of this act, continue membership in a society already formed, having for its object, in whole or in part, the promotion of treason, rebellion, or sedition, or the promulgation of any political opinion or policy, shall be punished by a fine not exceeding \$1.000 or by imprisonment not exceeding one year, or both.

"Sec. 10. Until it has been officially proclaimed that a state of war or insur-"SEC. 10. Until it has been officially proclaimed that a state of war or insurrection against the authority or sovereignty of the United States no longer exists in the Philippine Islands it shall be unlawful for any persons to advocate orally, or by writing or printing, or like methods, the independence of the Philippine Islands or their separation from the United States, whether by peaceable or forcible means, or to print, publish, or circulate any handbill, newspaper, or other publication advocating such independence or separation. "Any person violating the provisions of this section shall be punished by a fine of not exceeding \$2,000 and imprisonment not exceeding one year." I have the honor to transmit herewith copy of act No. 292, passed by the United States Philippine Commission, as certified to the War Department, and to inform you that this Department has not been advised that any person has been punished for violation of said act, nor that proceedings have

son has been punished for violation of said act, nor that proceedings have been instituted against any person for an alleged violation thereof.

Very respectfully,

The President pro tempore, United States Senate.

Mr. HOAR. Mr. President, I wish to inquire if the statement just read, which I heard after the first line or two of it had been read, is a statement of what is the actual law in the Philippine Islands or only a statement of some alleged or proposed law.

Mr. RAWLINS. The request was to have the act transmitted

ELIHU ROOT, Secretary of War,

That has not yet been read.

The PRESIDENT pro tempore. The communication just read is in response to the resolution offered by the Senator from Utah. The Secretary of War has sent the legislation which was sent to the Department from the Philippine Archipelago, and that has not been read.

Mr. President-Mr. TELLER.

Mr. HOAR. If I understood that correctly, a wife knowing of what is alleged to be the treason of a husband, or a husband knowing what is alleged to be the treason of a wife, or a mother knowing what is alleged to be the treason of a son, or a son knowing the treason of a mother, and so on, of the son and the father and the brother—the person knowing that and not acting as an informer to the government is, under a law imposed by the authority of United States, to be punished by seven years impris-onment. I should like to know whether that is true.

The PRESIDENT pro tempore. As the request was made that

the return of the Secretary of War should be read-

Mr. TELLER. That is what we want, Mr. President.

The PRESIDENT pro tempore. It will be read.

The Secretary read as follows:

[Inclosure.]

No. 292.—An act defining the crimes of treason, insurrection, sedition, conb. 282.—An act defining the trimes of treason, maintection, seation, corresponding to the trimes, seditious utterances whether written or spoken, the formation of secret political societies, the administering or taking of oaths to commit crimes or to prevent the discovering of the same, and the violation of oaths of allegiance, and prescribing punishment therefor.

By authority of the President of the United States, be it enacted by the United States Philippine Commission, that: Section 1. Every person resident in the 4896

Philippine Islands, owing allegiance to the United States or the government of the Philippine Islands, who levies war against them, or adheres to their enemies, giving them aid and comfort within the Philippine Islands or elsewhere, is guilty of treason, and upon conviction shall suffer death or, at the discretion of the court, shall be imprisoned at hard labor for not less than

discretion of the Court, shart be imprisoned at hard labor for not less than \$10,000.

SEC. 2. Every person, owing allegiance to to the United States or the government of the Philippine Islands, and having knowledge of any treason against them or either of them, who conceals, and does not as soon as may be disclose and make known the same to the provincial governor in the province in which he resides or to the civil governor of the islands or to some judge of a court of record, is guilty of misprision of treason, and shall be imprisoned not more than seven years and be fined not more than \$1,000.

SEC. 3. Every person who incites, sets on foot, assists or engages in any rebellion or insurrection against the authority of the United States or of the government of the Philippine Islands, or the laws thereof, or who gives aid or comfort to anyone so engaging in such rebellion or insurrection, shall, upon conviction, be imprisoned for not more than ten years and be fined not more than \$10,000.

Sec. 4. If two or more persons conspire to overthrow, put down, or destroy by force the Government of the United States in the Philippine Islands or the government of the Philippine Islands, or by force to prevent, hinder, or delay the execution of any law of the United States or of the Philippine Islands, or by force to seize, take, or possess any property of the United States or of the government of the Philippine Islands contrary to the authority thereof, each of such persons shall be punished by a fine of not more than \$5,000 and by imprisonment, with or without hard labor, for a period

not more than six years SEC. 5. All persons who rise publicly and tumultuously in order to obtain by force or outside of legal methods any of the following objects are guilty of sedition:

1. To prevent the promulgation or execution of any law or the free hold-

ing of any popular election.

2. To prevent the insular government or any provincial or municipal gov-

ernment or any public official from freely exercising its or his duties, or the due execution of any judicial or administrative order.

3. To inflict any act of hate or revenge upon the person or property of any official or agent of the insular government or of a provincial or munici-

pal government.

4. To inflict, with a political or social object, any act of hate or revenge

upon individuals or upon any class of individuals in the islands.

upon individuals or upon any class of individuals in the islands.

5. To despoil, with a political or social object, any class of persons, natural or artificial, a municipality, a province, or the insular government, or the Government of the United States or any part of its property.

SEC. 6. Any person guilty of sedition, as defined in section 5 hereof, shall be punished by a fine of not exceeding \$5,000 and by imprisonment not exceeding ten years, or both.

SEC. 7. All persons conspiring to commit the crime of sedition shall be punished by a fine of not exceeding \$1,000 or by imprisonment not exceeding flive years, or both.

five years, or both.

SEC. 8. Every person who shall utter seditious words or speeches, write, publish, or circulate scurrilous libels against the Government of the United States or the insular government of the Philippine Islands, or which tend to disturb or obstruct any lawful officer in executing his office, or which tend to instigate others to cabal or meet together for unlawful purposes, or which suggest or incite rebellious conspiracies or riots, or which tend to stir up the

suggest or incite rebellious conspiracies or riots, or which tend to stir up the people against the lawful authorities or to disturb the peace of the community, the safety and order of the Government, or who shall knowingly conceal such evil practices, shall be punished by a fine not exceeding \$2,000 or by imprisonment not exceeding two years, or both, in the discretion of the court.

SEC. 9. All persons who shall meet together for the purpose of forming, or who shall form any secret society, or who shall after the passage of this act continue membership in a society already formed, having for its object in whole or in part the promotion of treason, rebellion, or sedition, or the promulgation of any political opinion or policy, shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year or both

exceeding \$1,000 or by imprisonment not exceeding one year, or both.

SEC. 10. Until it has been officially proclaimed that a state of war or insurrection against the authority or sovereignty of the United States of war or insur-rection against the authority or sovereignty of the United States no longer exists in the Philippine Islands, it shall be unlawful for any person to advo-cate orally or by writing or printing or like methods the independence of the Philippine Islands or their separation from the United States, whether by peaceable or forcible means, or to print, publish, or circulate any handbill,

newspaper, or other publication advocating such independence or separation.

Any person violating the provisions of this section shall be punished by a fine of not exceeding \$2.000 and imprisonment not exceeding one year.

SEC. 11. Every person who shall administer, or be present and consent to the administering of, any oath or any engagement purporting to bind the person taking the same to commit any crime punishable by death or by imprisonment for five years or more, or who shall attempt to induce or compel any person to take any such oath or engagement or who shall himself take any such oath or engagement, shall be punished by a fine not exceeding \$2,000 or by imprisonment not exceeding ten years.

SEC. 12. Any person who administers, or who is present at, and consenting to, the administering of any oath or engagement purporting to bind the per-

son taking the same, either

1. To engage in any seditious purpose; or 2. To disturb the public peace or commit or endeavor to commit any criminal offense; or

To fail or refuse to inform and give evidence against any associate, con-

federate, or other person; or

4. To fail or refuse to reveal or discover any unlawful combination or confederacy or any illegal act done or to be done or any illegal oath or obligation or engagement which may have been administered or tendered to or taken

by any person or the import of any such oath, obligation, or engagement.
And likewise anyone who attempts to induce or compel any person to take
any such oath or engagement, and likewise any person who takes any such

any such oath or engagement, and likewise any person who takes any such oath or engagement shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding five years, or both.

SEC. 13. Any person who, under such compulsion as would otherwise excuse him, offends against either of the last two preceding sections shall not be excused thereby, unless within the periods hereinafter stated he declares the same, and what he knows touching the same, and the persons by whom such oath or obligation or engagement was administered or taken, by information upon oath before a justice of the peace, judge of a court of first instance, or provincial fiscal of the municipality or province in which such oath or engagement was administered or taken. Such declaration may be made by him within fourteen days after the commission of the offense, or. be made by him within fourteen days after the commission of the offense, or if he is hindered from making it, by actual force or sickness, then within eight days after cessation of such hindrance, or on his trial, if that happens before

days after cessation of such hindrance, or on his trial, if that happens before the expiration of either of those periods.

SEC 14. Any person who shall have taken any oath before any military officer of the Army of the United States or before any officer under the civil government of the Philippine Islands, whether such official so administering the oath was specially authorized by law so to do or not, in which oath the affiant in substance engaged to recognize or accept the supreme authority of the United States of America in these islands or to maintain true faith and allegiance thereto or to obey the laws, legal orders, and decrees promulgated by its duly constituted authorities, and who shall, after the passage of this act, violate the terms and provisions of such oath or any of such terms or provisions, shall be punished by a fine not exceeding \$2.000 or by imprisonment not exceeding ten years, or both.

SEC 15. The provisions of this act shall not apply to the organized provinces of Batangas, Cebu, and Bohol, nor to any province where civil government has not been established, so long as insurrection against the authority of the United States, division of the Philippines, shall authorize and direct prosecutions in the civil courts in such territories for offenses under this act, in which event it shall apply.

ecutions in the civil courts in such territories for offenses under this act, in which event it shall apply.

SEC 16. All laws and parts of laws now in force, so far as the same may be in conflict herewith, are hereby repealed: Provided, That nothing herein contained shall operate as a repeal of existing laws in so far as they are applicable to pending actions or existing causes of actions, but as to such causes of actions, or pending actions, existing hims shall remain in full force and effect, this act being entirely prospective.

SEC 17. A foreigner, residing in the Philippine Islands, who shall commit any of the crimes specified in the preceding sections of this act, except those specified in sections 1 and 2, shall be punished in the same way and with the same penalty as that prescribed for the particular crime therein.

SEC 18. This act shall take effect on its passage.

Enacted November 4, 1901.

Enacted November 4, 1901.

Mr. FORAKER. Mr. President, I send to the Secretary's desk the Revised Statutes, and ask that sections 5331 to 5338, both inclusive, may be read.

The PRESIDING OFFICER (Mr. Kean in the chair). In the absence of objection, the Secretary will read as requested.

The Secretary read as follows:

Sec. 5331. Every person owing allegiance to the United States who levies

war against them, or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason.

SEC. 5332. Every person guilty of treason shall suffer death; or, at the discretion of the court, shall be imprisoned at hard labor for not less than five years and fined not less than \$10,000, to be levied on and collected out of any

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or all of his property, real and personal, of which he was the owner at the time of committing such treason, any sale or conveyance to the contrary not-withstanding; and every person so convicted of treason shall, moreover, be incapable of holding any office under the United States.

Sec. 5333. Every person owing allegiance to the United States and having knowledge of the commission of any treason against them, who conceals, and knowledge of the commission of any treason against them, who conceals, and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor, or to some judge or justice of a particular State, is guilty of misprision of treason, and shall be imprisoned not more than seven years and fined not more than \$1,000.

SEC. 5534. Every person who incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be punished by imprisoment not more than ten years or by a fine of not more than \$10,000, or by both of such punishments; and shall, moreover, be incapable of holding any office under the United States.

one under the United States.

SEC. 5335. Every citizen of the United States, whether actually resident or abiding within the same or in any foreign country, who, without the permission or authority of the Government, directly or indirectly, commences or carries on any verbal or written correspondence or intercuty, commences or carries on any verbal or written correspondence or intercourse with any foreign government or any officer or agent thereof, with an intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States or to defeat the measures of the Government of the United States; and States or to detect the measures of the Government of the United States, and every person, being a citizen of, or resident within, the United States, and not duly authorized, who counsels, advises, or assists in any such correspondence, with such intent, shall be punished by a fine of not more than \$5,000, and by imprisonment during a term not less than six months nor more than three years; but nothing in this section shall be construed to abridge the right of a citizen to apply himself or his agent to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

from such government or any of its agents or subjects.

SEC. 5336. If two or more persons in any State or Territory conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof; or by force to prevent, hinder, or delay the execution of any law of the United States; or by force to seize, take, or possess any property of the United States contrary to the authority thereof; each of them shall be punished by a fine of not less than \$500 and not more than \$5,000; or by imprisonment, with or without hard labor, for a period not less than six months nor more than six years or by both such fine and imprisonment.

more than six years, or by both such fine and imprisonment

SEC. 5337. Every person who recruits soldiers or sailors within the United SEC. 5337. Every person who recruits soldiers or sailors within the United States to engage in armed hostility against the same, or who opens within the United States a recruiting station for the enlistment of such soldiers or sailors, to serve in any manner in armed hostility against the United States, shall be fined not less than \$200 nor more than \$1,000, and imprisoned not less than one year nor more than five years.

SEC. 5338. Every soldier or sailor enlisted or engaged within the United States, with intent to serve in armed hostility against the same, shall be punished by a fine of \$100 and by imprisonment not less than one year nor more than three years.

than three years.

The PRESIDING OFFICER. The communication which has been read will be printed and referred to the Committee on the Philippines, if there be no objection.

Mr. HOAR.

Mr. President—
If my colleague will allow me, I simply want Mr. LODGE. to make a verbal change in the pending amendment.

Mr. HOAR. Very well.

Mr. LODGE. The amendment of the committee, which is now section 7, on page 5, line 18, reads, "under such bonds and regulations." That is a misprint. I want it changed so as to read "under such rules and regulations as may be prescribed by the Secretary of the Treasury." If that amendment can be disposed of, I shall be obliged, for that will conclude all the committee amendments. We can then have a new print of the bill as amended.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Massachusetts [Mr. Lodge].

Mr. LODGE. It is merely to correct a misprint. The amendment to the amendment was agreed to. Mr. HOAR. If my colleage has got through, I desire to take the floor.

Mr. LODGE. I just want to dispose of this last amendment, which will conclude the committee amendments, and then the bill can be printed as amended.

Mr. SPOONER. Is not the bill still open to amendment?

Mr. LODGE. Certainly: this only disposes of the committee amendments.

Mr. SPOONER. I want to offer an amendment.

Mr. LODGE. I will not propose to reprint the bill now, because the Senator from Wisconsin has an amendment to offer, which I shall be very glad to accept.

The PRESIDENT pro tempore. The question is on the adoption of the amendment of the committee inserting section 7 as it

has been amended.

The amendment as amended was agreed to.

Mr. LODGE. That concludes the committee amendments, Mr. President.

Mr. HOAR. Mr. President——

Mr. TELLER. I do not want to interfere with the Senator from Massachusetts, but I have an amendment that I want to take up at the proper time.

Mr. LODGE. All I said was that the last amendment agreed

to concluded the committee amendments.

Mr. HOAR. Mr. President, I propose to call the attention of the Senate for a moment to what seems to me an exceedingly harsh and cruel provision of this law, if it is to be called a law, which has just been read, and to say that I am sorry that the Philippine Commissioners seemed to have stopped with the only harsh and cruel provision which is to be found in our own stat-

utes in regard to treason.

Under this provision, as I said just now, the mother must complain of the son; the son must complain of the mother; the father must complain of the child; and the husband must complain of the wife, under a severe penalty. Why, Mr. President, an eminent doctor of divinity was charged before the civil war with having said that he would send his mother into slavery if that were necessary to save the Union, and a spasm of horror went through the whole country. The statement that he had said so was denied, and he said that it was his brother that he said he would send into slavery. Many people thought that that was not much better.

But this provision, which in the United States statute only applies to persons committing such an offense against their own country—to whose allegiance they were born and bred, or whose oath of allegiance, if born elsewhere, they have voluntarily takenwas never applied here, and I do not believe it will be found in the history of human cruelty that it has been applied anywhere to the case of one people undertaking to subjugate another people by conquest where a whole people believe they are entitled as of right to their liberty and independence. But here, at least, hard as it would be, it is mitigated by the fact that the offense both of the traitor and of the person charged with misprision of treason is to be tried by a jury of the peers and fellow-citizens of the person charged and in a district previously ascertained where the offense was committed. This is to be put in execution by an alien authority, by courts-not by juries-paid by an alien power and responsible to alien direction and command.

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I do not mean to debate this question much until the case which is to be made up for us by our committee of investigation comes in: but as I have called attention to this one fact as it went in, I wish to call attention also now for a moment to a provision not found in any United States statute; a provision which, if it were attempted to be incorporated in any United States statute, would hurl from power at once by a general storm of popular indignation the government that should undertake to enact it; and that is, that any secret society formed for the purpose of advocating any political opinion whatsoever renders all its membership liable

to imprisonment as an offense against the state.

Why, Mr. President, we were told, when we were first asked to enter upon this unhappy career in which the country has been embarked, that we were to give such an example of a perfect, mild, humane, and advanced government abroad that we should adopt it at home as a model for ourselves; and the junior Senator from Indiana [Mr. Beveringe] said in an impassioned speech that he looked for great improvement in our defective and faulty national legislation at home from the example we were to set to mankind when we got started in the Philippine Islands. So far we have this example for our improvement—the application of the harshest doctrine of misprision of treason known to human statute books, without a jury trial, administered by alien courts. responsible to an alien government, of an enactment that a secret society formed for the purpose of advocating any political opinion whatsoever renders its membership punishable like felons! That is the improvement which we are invited to adopt at home.

Mr. PATTERSON. Will the Senator from Massachusetts allow me to relieve at least one member of the Philippine Commission

from a part of the odium of this law?

Mr. HOAR. Certainly.

Mr. PATTERSON. Governor Taft before the Philippine Committee had his attention directed to this law. He stated that when it was passed he was sick in bed, and that had he been there doubtless there would have been at least a modification of it.

Mr. HOAR. I am quite ready to believe of that honorable and

humane gentleman that what the Senator has said is true.

Mr. BACON. Mr. President, the honorable Senator from Ohio [Mr. FORAKER], immediately after this Philippine statute was read, had read the statute of the United States on the subject of treason, providing what should be treason, and in that only following the constitutional provision—

Mr. HOAR. Will the Senator pardon me one moment? I forgot one thing, being interrupted, which I was just about to say.

May I add it before the Senator proceeds?

Mr. BACON. Certainly.

Mr. HOAR. I was about to say that here treason against the United States consists only in the actual levying of war against the Government or giving aid and comfort to its enemies, while treason in the Philippine Islands is a very different thing.

Mr. BACON. I had it in mind to make the same statement—that the United States statute but follows the definition of treason which is given in the Constitution of the United States, which limits treason to the acts therein specified. The Senator from Ohio [Mr. Foraker] had these statutes read, I say, Mr. President, intending thereby, I suppose, to make it appear that this remarkable Philippine act was substantially a copy of that act. The truth is that they are as wide apart as the poles, for the

reason just suggested by the senior Senator from Massachusetts [Mr. HOAR]. There is a copying of the penalties, but an entire difference as to the offenses for which those penalties shall

be inflicted.

Mr. President, it is not the time now to discuss it, but I should like in this connection, in view of the suggestion I have made, that the purpose of the Senator must have been to show such a correspondence between the two as to find a justification for the Philippine act in the statute of the United States—in view of that I desire, if the Senator will pardon me, to ask him the question, so that we may have as direct an answer as his convenience will permit, whether he approves of the Philippine statute which has been read here to-day.

Mr. FORAKER. Mr. President, I supposed when the Senator from Massachusetts [Mr. HOAR] concluded that I would be given an opportunity to answer him; but, inasmuch as the Senator from Georgia [Mr. Bacon] got the floor before I was aware that the Senator from Massachusetts had quit it, I rise now only to say in response to that question that as soon as the Senator concludes, if I may be permitted the privilege of the floor, I will then make answer to the question he has propounded or any other he may see fit to ask in regard to this matter. Is the Senator through?

Mr. BACON. I sat down.

Mr. FORAKER. Very well; but I thought you sat down in deference to myself rather than because you had concluded.

Mr. PATTERSON. Mr. President, I wish to suggest a matter which is pertinent to what has been stated, so that the Senator from Ohio may answer in connection with the communication from the Secretary of War, if he will permit me.

Mr. FORAKER. Certainly: I yield. Mr. PATTERSON. Mr. President, it developed in the examination before the Philippine Committee that there are three political parties in the Philippine Islands, particularly in Manila. One is the Federal party, which virtually promises statehood at some future time to the Philippine Islands. The other principal party was the partido conservador, or the Conservative party, which, according to the testimony of Governor Taft, has for its platform, first, peace, and then peaceful agitation for the independence of the Philippine Islands. Governor Taft told us of the wonderful advance-

Mr. FORAKER. I yielded to the Senator from Colorado be-

cause I thought he wanted to ask a question.

Mr. PATTERSON. I shall be through in a very few minutes. Mr. FORAKER. I do not want to yield for a few minutes. I only yielded for a question.

Mr. PATTERSON. I think you will see the pertinency of what I am about to say, and I believe you would like to answer what I

shall suggest.

Mr. FÖRAKER. Very well. Mr. PATTERSON. Governor Taft stated the wonderful progress of the Federal party. The Conservative party, he said, was not of much moment: that it had no membership of any account outside of Manila, and was not progressing in Manila.

Then, with reference to this law, he was asked whether or not the advocacy of the platform of the Conservative party, which was absolute peace first and then peaceful agitation for independence, did not make the members of that party subject to the de3 2 5

nunciation of the law which has just been read, and he stated that he supposed it did.

Mr. FORAKER. What is the Senator's question? Mr. PATTERSON. The question is whether or not the Senator approves of that procedure as well as of the law which has been read.

#### SPEECH OF HON, J. B. FORAKER.

Mr. FORAKER. I never saw this Philippine statute, and I never heard it read until it was read from the Secretary's desk a few minutes ago. I heard some comments upon it in this Chamber a few days ago, when the resolution in response to which it has been sent here was offered and adopted, and I heard the recitals of that resolution at that time. I heard also just now, as the letter from the Secretary of War was being read, the remarks of

the Senator from Massachusetts [Mr. HOAR].

I discovered from his remarks that he was very much disturbed mentally, morally, and otherwise because of a certain provision in this statute, namely, that which (to use his language as near as I can recall it) made it the duty of a wife to disclose to a proper official named treason contemplated or about to be committed or having been committed by her husband, or made it the duty of the child to so inform upon the parent, or of a sister to inform upon her brother, and vice versa; and I understood him to say that was unprecedented, and he wanted to know whether or not it was possible that legislation of that character had been enacted under and by the authority of the United States.

It occurred to me in that connection to send for the Revised Statutes and then call the attention of the Senate to the fact, in answer to the inquiry of the Senator from Massachusetts, that these United States Statutes, enacted by the American Congress, had so provided, not for the Filipinos, but for the people of the United States; and as I read through our own statute on the subject of treason and listened to the reading of the Philippine statute as it was read at the Secretary's desk, I discovered what I now want to particularly call attention to, that not alone, as has been suggested by the Senator from Georgia [Mr. Bacon], are the penalties practically the same, but the definitions and general provisions are almost identical.

In other words, Mr. President, it is apparent, from a reading and comparison of these two statutes, that the Philippine Commission, in enacting the statute now under consideration for the Philippines, had before them our own statute, as it has now been read from the Secretary's desk from the Revised Statutes of the United States. They have simply adopted its language and its general purport, adding thereto other matters possibly—for I have not had time to read it, but only to hear it read—applicable to the Philippine Islands, and matters that were not applicable

here; but of them presently.

For the present, I content myself with calling attention—and inasmuch as the Constitution of the United States has been referred to, I want to call attention to that also—to the similarity, I was about to say, of our statute here and the Philippine statute. It has been said that our statute is but an interpretation and definition more elaborately given of the constitutional provision on the subject.

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Mr. President, the constitutional provision on this subject is very short. It is very comprehensive, however. Without this statute we would have no law defining treason or providing for the punishment of treason when committed. The statute was necessary in order to put into the form of law that which by our organic law was made a crime against government in this country. Section 3 of Article III of the Constitution of the United States reads as follows:

Treason against the United States shall consist only in levying war against

them, or in adhering to their enemies, giving them aid and comfort.

The rest of the section has relation to conviction, etc., and it is not necessary to read it now. Such is the constitutional definition of treason in this country. It shall consist only in levying war against the United States or in giving aid and comfort to the

enemies of the United States.

Now let us see what the statute contains. The necessity for a statute was not to define what levying war consisted of, but what constituted giving aid to the enemies of the United States. It will be obvious, as attention is called to this statute, that the language in the Constitution did not make necessary all the provisions of this statute, but that they were found by our experience in government to be necessary in order properly to punish the different phases of the offense of giving aid and comfort to our enemies, which was by the Constitution prohibited.

. Mr. HOAR. The Senator will pardon me. He does not state that with precise accuracy. It is not giving aid and comfort. It is "adhering to their enemies, giving them aid and comfort."

Mr. FORAKER. "Or in adhering to their enemies."

Mr. HOAR. "Giving them aid and comfort."

Mr. FORAKER. I am obliged to the Senator for calling my attention to the fact that I was not with exact accuracy quoting the language that I was intending to quote. The provision itself defines its purpose. The language is:

Or in adhering to their enemies, giving them aid and comfort.

In other words, the Constitution undertook to define what was meant by "adhering" to the enemies of the United States. By "adhering" to the enemies of the United States was meant giving them aid or comfort. That is the way I understand it, and that is why I was reading it as I did, my understanding being that treason against the United States consists in levying war against the United States or adhering to the enemies of the United States, to wit, giving them aid and comfort. That is what "adhering" means in the constitutional sense.

Now, having the constitutional provision before us, let me read section 5331, and as I read this statute I want to read the corre-

sponding sections of the Philippine statute:

Sec. 531. Every person owing allegiance to the United States who levies war against them, or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason.

This is but a reenactment of the constitutional provision on the subject.

That act was first passed in 1790: so it is a statute of rather re-

spectable age. Section 5332 provides:

Every person guilty of treason shall suffer death; or, at the discretion of the court, shall be imprisoned at hard labor for not less than five years and fined not less than \$10,000, to be levied on and collected out of any or all of his property, real and personal, of which he was the owner at the time of committing such treason, any sale or conveyance to the contrary notwithstanding; and every person so convicted of treason shall, moreover, be incapable of holding any office under the United States.

I will read one other section of the Revised Statutes before I compare it with the Philippine statute. It is the section to which I called the attention of the Senator from Massachusetts particularly as answering his remarks made in the Senate before I introduced the Revised Statutes, when he wanted to know whether or not under the authority of the United States any statute had ever been passed making it the duty of a wife to inform on the husband, or of a child to inform on the parent, etc. This is as follows:

SEC. 533. Every person owing allegiance to the United States and having knowledge of the commission of any treason against them, who conceals, and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor, or to some judge or justice of a particular State, is guilty of misprision of treason, and shall be imprisoned not more than seven years, and fined not more than \$1,000.

Now let me read from the Philippine statute:

Section 1. Every person resident in the Philippine Islands owing allegiance to the United States or the government of the Philippine Islands who levies war against them or adheres to their enemies, giving them aid and comfort within the Philippine Islands or elsewhere, is guilty of treason, and upon conviction shall suffer death or, at the discretion of the court, shall be imprisoned at hard labor for not less than five years and fined not less than imprisoned at hard labor for not less than five years and fined not less than

You will observe that it is almost identically the language of our own statute, making only such difference in the text as is necessary to make it applicable to the Philippine Islands particularly.

Now, section 2 reads as follows:

Every person owing allegiance to the United States or the government of the Philippine Islands and having knowledge of any treason against them or either of them who conceals and does not, as soon as may be, disclose and make known the same to the provincial governor in the province in which he resides or to the civil governor of the islands or to some judge of a court of record is guilty of misprision of treason, and shall be imprisoned not more than seven years and be fined not more than \$1,000.

I call the attention not only of the Senator from Massachusetts, but also of the Senator from Georgia, to the fact that this section is in identically the same language as the section which has been quoted from our Revised Statutes; not in identically the same language as to the penalty to be imposed, but in identically the same language in defining the crime for which the penalty is to be imposed, viz: Whoever having knowledge of treason does not disclose the same as soon as may be shall be guilty thus and so and be fined thus and so.

Mr. TELLER. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.

Mr. HOAR. Mr. President—
Mr. TELLER. I yield to the Senator from Massachusetts.
Mr. HOAR. I desire to ask in this connection—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. FORAKER. I do.

Mr. HOAR. I desire to ask the Senator from Ohio, as my friend the Senator from Maine is in the habit of saying, right here, whether he approves of that provision as applicable to the Philippine Islands or whether he agrees with Governor Taft, as has been reported here?

Mr. FORAKER. I do not know what Governor Taft has said, but I approve of this provision without any qualification whatever. Now, I ask the Senator from Massachusetts if he approves of this section of the Revised Statutes of the United States which I have just read, and why, if he does, he takes such exception to its counterpart when applied to the Philippines?

Mr. HOAR. I do not.

Mr. FORAKER. You do not approve of it as applied to the United States?

Mr. HOAR. You ask me a question, and I will answer it.

Mr. FORAKER. Let me ask the Senator-

Mr. HOAR. Wait.

 $\operatorname{Mr.}$  FORAKER. I have the answer. Now, let me ask another question.

Mr. HOAR. You have not yet the answer.

Mr. FORAKER. I asked for an answer, and I have it, and

now I want to follow it up with another question.

Mr. HOAR. I say I had not completed my answer; which knows better, the Senator from Ohio or I? He asked me a question—

Mr. FORAKER. Certainly, I vield.

Mr. HOAR. He got part of the answer, and he says I have completed it.

Mr. FORAKER. I yield to the Senator that he may complete

his answer, if he so desires.

Mr. HOAR. I do not agree with the statute of the United States. I think that the statute of the United States including mothers and wives and children is a harsh one; but in our circumstances, with respect to treason likely to have been committed within the contemplation of the authors of that statute, such a thing would never practically happen.

But here, going to a foreign country, where the whole population are against you and believe they are right, and are struggling for the very doctrines upon which our statutes are based, it becomes a harsh, cruel, and reprehensible act. I differ with the Senator from Ohio when he says he would have a Philippine mother imprisoned seven years if she did not tell on her son, or a Philippine son imprisoned seven years if he did not tell on his mother. I differ with him. He has the answer now.

Mr. FORAKER. What is not too harsh for an American wife or child is not, in my opinion, too harsh for anybody else; but, as I understand the Senator from Massachusetts, he differentiates as to these statutes only because here in this country our statute is not likely to be violated, as he thinks, while over in the Philip-

pines the statute is likely to be violated.

Mr. HOAR. It has also——

Mr. FORAKER. I want to make this speech, if allowed to. The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. HOAR. I do not ask him.

Mr. FORAKER. I will yield presently, but I want to finish these remarks.

In other words, the Senator has no objection to this statute so long as it is dormant, and there is nothing in the conditions to call it into operation or exercise.

Mr. HOAR. I did not say that, Mr. President.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. HOAR. The Senator says I have no objection. I have just

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stated that I did not approve of it, and I do not approve of it any-

where, but it would not do much harm here.

Mr. FORAKER. Notwithstanding all that the Senator from Massachusetts has just said, the effect of what he had already said when I was about to proceed with my speech was that he has no objection to our statute, no active objection, I mean, simply because he thinks there is no likelihood of its being violated.

Mr. SPOONER. Will the Senator from Ohio allow me to suggest to him that the Congress which enacted that statute evidently thought there would be danger of its being violated or it never

would have passed it.

I was about to call attention to that. I thank Mr. FORAKER. the Senator from Wisconsin for calling my attention to it in the way he has. I was about to call the attention of the Senator from Massachusetts to the fact that this statute has been on our statute

books longer than he has lived. It was enacted in 1790.

It has been here during all his long, distinguished, and honored career in the American Congress in both Houses: it was enacted by the fathers who framed the Constitution of the United States; the fathers who set our Government machinery into operation. It was their idea of what should be the law of this free American Republic in respect to those who might undertake to overturn and destroy it. During all the period the Senator has been here, every day at liberty to offer repealing acts, or amendments, or other statutory provisions, he has never seen fit to raise his hand in a legislative way against this statute.

Mr. TILLMAN. Mr. President-

Mr. FORAKER. Now, Mr. President, that being true, what I want to call attention to is that our commissioners, away off in the Philippines, where they have the conditions of war that we have heard so much about in this Chamber during the last few days, when they were undertaking to legislate to protect American interests and American sovereignty and American Government, took our statute and followed it, followed it in its text and followed it in its penalties. Therefore it was not warranted, when Senators heard the statute read from the Secretary's desk, for them to rise and complain of it as something unprecedented and unheard of in the legislation of civilized governments. I now yield to the Senator from South Carolina.

Mr. TILLMAN. I should like to ask the Senator from Ohio, recalling to his mind the fact that the Filipinos had gone to war with Spain to throw off tyrannical government and oppression which was unendurable, wherein their condition differs from that of our forefathers who went to war with England under similar

conditions?

Mr. FORAKER. I might take a great deal of time to answer that. I do not think it is necessary, however, to take any. I think the Senator himself recognizes that there is a distinction.

Our forefathers struggled for their independence and they secured it, and when they secured it they were a free and independent people, and they legislated as they saw fit.

In the Philippine Islands the people were in insurrection against Spain, it is true, but their insurrection against Spain had nothing whatever to do with our operations in the Philippine Islands. We went to the Philippine Islands, not because we were at war with the Filipinos, but because we were at war with Spain and the Philippine Islands were possessions belonging to Spain.

went to the Philippine Islands and conquered that part of the Spanish territory and took title first by conquest and afterwards in accordance with the provisions of the treaty of peace and upon the payment in the way with which the Senator from South Carolina is familiar.

Mr. TILLMAN. Will the Senator from Ohio permit another

question?

Mr. FORAKER. Then when our sovereignty was established there, established in such a way as to be recognized by all the world, except the Senator and his political associates, recognized by everybody else all around the globe, then when we were seeking to establish government an insurrection broke out, and, like other insurrections that we know of in the past, it became the duty of the United States Government to suppress it.

It required an army and navy to do it, and we have been employing the Army and the Navy in that behalf, and we owe it to the Army and the Navy, who have been so gallantly and heroically upholding our flag and representing our cause there, to stand here

only with words of encouragement.

Mr. TILLMAN. Now will the Senator from Ohio permit me?

Mr. FORAKER. Yes, sir; with pleasure.

Mr. TILLMAN. It seems to me that any fair-minded person must recognize that France came to the assistance of the American colonists, and that through her instrumentality and aid our fathers won their independence from England. Now, recognizing, as the Senator has asserted, that we did not go to Manila because of the struggles of the Filipinos, still as lovers of liberty I want to ask him if he can not see that the Filipinos occupy even a higher position than our fathers did, for the reason that they had entered upon this struggle and through our assistance as allies they had won their country and owned every foot of it or controlled every foot of it except the city of Manila and the city of Iloilo, as is shown by the official reports of our own officers, when this insurrection of which he speaks broke out and when we forced that battle on Saturday night before the ratification of the treaty, when we had no title to the Philippines, when the purchase for \$20,000,000, paid to Spain for something she did not own, had not been com-

I want to ask him if these people, who are struggling under those conditions, having begun their contest against Spain and now continuing it against us, must be treated as they are intended to be treated by this dannable doctrine which has been

promulgated by the Commission?

Mr. FORAKER. In the first place, there is no analogy between the coming into this country in our revolution of the armies of France and the going of our armies into the Philippines; but even if there were, in view of the speech which the Senator from South Carolina has made and the question he has asked, it would be in order for me to ask him on which side of this struggle are his sympathies?

Mr. TILLMAN. My sympathies are with the Filipinos, strug-

gling for their freedom.

Mr. FORAKER. Undoubtedly they are. Everybody knew that, but now we have a flat-footed and unqualified declaration such as, if the Senator were not speaking in his place in the Senate, would make the provisions of the Revised Statutes, in regard to treason, which I have just read, applicable to him.

Mr. TILLMAN. I did not doubt that the Senator would come around to the point where he would accuse me of treason.

Mr. FORAKER. I simply announce what the Senator has declared.

Mr. RAWLINS. In order that-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Utah?

Mr. FORAKER. Certainly.

Mr. RAWLINS. In order that there may not be undue alarm at the present situation, I will invite the attention of the Senator from Ohio to the full text of the Constitution of the United States, all of which he did not read:

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

This is the part the Senator from Ohio did not read:

No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Mr. FORAKER. I did not read it, but I called attention to it, the Senator will remember.

Mr. RAWLINS. Let me complete it.

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

I wish to invite the attention of the Senator from Ohio to a very celebrated case, which arose when this Constitution was in force and when the statute was in force to which he has alluded. It is the case of the United States v. Aaron Burr, which came before the most distinguished jurist this country has known, and in a unanimous opinion by that distinguished judge, presiding over the Supreme Court of the United States, it was held that Burr could not be convicted of treason simply for advising resistance to the United States or cooperating with others who advised resistance against the United States, but that there must be an overt act of treason. You will have to stretch the statute and the Constitution far beyond the limits of the boundaries fixed for it by that distinguished judge before you can punish my friend, the Senator from South Carolina, for treason.

Mr. FORAKER. Mr. President, I am glad to know that the Senator from South Carolina is safe. We could not spare him out of this Chamber. He is of great use and benefit here. He

illustrates much that is useful—

Mr. CARMACK. Even though he is a traitor?

Mr. FORAKER. Even though he sympathizes with the Filipinos who are in rebellion against the authority of the United States, and thereby gives aid and comfort to the enemies of the United States.

Mr. TILLMAN. What makes them rebels? They were struggling for their independence against Spain when we went there.

Mr. HOAR. Mr. President--

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. HOAR. I should like to ask the Senator from Ohio one

question.

Mr. FORAKER. Certainly.

Mr. HOAR. And if it be in the least disagreeable to him to answer it, or any part of it, I will withdraw it. Do the people of

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Ohio, or does the Senator himself, reverence the memory of

Thomas Corwin:

Mr. FORAKER. The people of Ohio have a very profound respect for the memory of Thomas Corwin. He was a man of great intellectual endowment. He served his country with great distinction, but Senator Corwin, like some other distinguished Senators I have known, was unfortunate enough in one great emergency of his country to make a profound mistake.

What was the mistake? Perhaps the Senator will Mr. HOAR.

answer that or perhaps he will allow me to state.

Mr. FORAKER: The position Mr. Corwin took-

Mr. HOAR. The Senator will allow me one sentence.

Mr. FORAKER. The position Mr. Corwin took in regard to

the Mexican war.

Mr. HOAR. Senator Corwin said in this body: "If I were a Mexican as I am an American, I would welcome you with bloody hands and hospitable graves." And the people of Ohio, and the Senator from Ohio, I believe, love and honor him because of that brave utterance

Mr. FORAKER. Mr. President, I call the attention of the Senator from Massachusetts to the fact that Mr. Corwin, when he made that speech, was serving in the last official position to

which he was ever assigned by the people of Ohio.

Mr. CARMACK. But not the last honorable position he ever

held.

Mr. FORAKER. No; he was afterwards sent by the President of the United States as minister to Mexico, but he was never after that utterance honored with the confidence and by the ballots of the people of Ohio; not that they entirely disagreed with him-

Mr. HOAR. No.

There were many who sympathized with him, Mr. FORAKER. but the people of Ohio as a whole have always been loyal to the Government of the United States, and now when the flag of our country is being borne by our soldiers to battle every man in Ohio will stand behind them to encourage them, and no man can be honored by the voters of that State who discourages them and throws disparagement on that which they are doing.

Mr. HOAR. Did not the majority of the people of Ohio, or at any rate the entire party to which the Senator himself then be-

longed in Ohio, sympathize with that utterance?
Mr. RAWLINS. Mr. President——

Mr. FORAKER. In so far as they did, the party went out of power.

Mr. HOAR. Well, I know——

Mr. FORAKER. I know—
The PRESIDENT pro tempore. The Chair wishes—

Mr. HOAR. I will ask but one more question.

The PRESIDENT pro tempore. The Senator from Massachusetts will subside for one moment.

Mr. FORAKER. Now, Mr. President—

The PRESIDENT pro tempore. The Chair wishes that Senators would aid him in securing obedience to the rules of this body. The Chair can not do it himself.

Mr. HOAR. I beg the Chair's pardon. I was wrong.

The PRESIDENT pro tempore. Does the Senator from Ohio vield to the Senator from Massachusetts?

Mr. HOAE. I want to ask one more question, and then I will stop.

Mr. FORAKER. I yield with pleasure.

Mr. HOAR. Do the people of Ohio settle great questions of

morals and justice by a show of hands:
Mr. FORAKER. They do by a show of ballots. The people of Ohio need no defense from me. The first settlement came from the State represented by the distinguished Senator. Our establishment of civil government was at Marietta in 1788, and it was by such men as Manasseh Cutler and Rufus Putnam, as good men as this country has ever produced; and from the day that civil government was established at Marietta for the Northwest Territory down to this time the people of Ohio have been standing lovally and faithfully on every occasion by the Government of the United States, and no man who has ever been suspicioned of not so loyally standing has been allowed very long to continue in their representation in any capacity.

Mr. PATTERSON. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.

Mr. PATTERSON. The Senator from South Carolina referred to the assistance which France rendered to the colonies in the war for independence. We know that under and by virtue of the arrangement made between Benjamin Franklin and the Government of France, France sent its armies to this country and sent its fleets of war. Its armies were welcomed into the midst of the country. Its fleets received free admission into our ports.

Suppose, Mr. President, at the time of the siege of Yorktown the Government of France had negotiated with the Government of Great Britain and paid Great Britain \$20,000,000 for the sovereignty of Great Britain over the United States, and then and there, the French soldiers and French fleets being in the midst of the colonies and the colonial ports, those in command of the French army and navy had demanded the submission of the American colonies to the Government of France and had asserted the sovereignty it had bought from Great Britain. What would have been the verdict of the civilized world upon conduct so infamous as that? And there is but little difference, I imagine, between the presence of the army of France and the fleets of France in the colonies and its ports and the presence of the United States with its fleets and its armies in the bay of Manila and in the land of the Philippines.

Mr. FORAKER. Is that all of the Senator's question?

Mr. PATTERSON. I did not say that I was going to ask a

question.

Mr. FORAKER. I yielded that the Senator might ask a ques-The Senator has given us his view of our situation in the Philippines. I can not undertake to repeat it, but the effect of it is that we are there in such an attitude as that the Filipinos have a right, justly and equitably, and without the commission of any offense against good government or our authority, to drive us out if they can.

Mr. PATTERSON. We were there and are there as allies of

the Filipinos.

Mr. FORAKER. I do not further yield, Mr. President, to the Senator.

Mr. PATTERSON. We are there as the French were allies of the American colonies.

The PRESIDENT pro tempore. The Senator from Ohio refuses

to yield.

Mr. FORAKER. For three years we have been debating this question in the Halls of Congress and in newspapers, and on all the political stumps throughout the country. Under the leadership of Mr. Bryan it was asserted that the American people had gone into the Philippines as allies of the Filipinos, and that we had treacherously, at the conclusion of the struggle there, overcome them and taken possession of their country and had entered upon a tyrannical rule without regard to their consent.

Mr. President, the American people have answered such speeches as Mr. Bryan made and such speeches as have been made here to-day by the Senator from Colorado and the Senator from South Carolina. The answer of the American people has been emphatic and overwhelming that we had a right, according to the fortunes of war, to go into the Philippines. That country belonged to

Spain.

We were at war with Spain, and we had a right to despoil our enemy of his possessions. We went there and we fought and overcame the armies of Spain. We took possession of that country and we have held it ever since, and we will hold it until the authority of the United States is recognized throughout that archipelago-recognized here in the halls of Congress and recognized there in all the islands of the Philippines.

Mr. PATTERSON. And you propose to hold them how much

Mr. FORAKER. I do not know how long we shall hold them, but we shall hold them until we get ready to do something else with them, at any rate.

Mr. TILLMAN. Mr. President—
The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. I do. Mr. TILLMAN. We are indulging in historical reminiscences, and I want to call the Senator's attention to the fact that the great party to which he belongs, when it first appealed to the people of this country, was defeated, and the cry went up from its great leader that nothing is ever settled until it is settled right. If he appeals to the votes of the ignorant people who have followed his lead and that of the other despoilers of the Philippines as a vindication for this damnable apostacy to the Declaration of Independence he is welcome to the honor and to the enjoyment of it.

Mr. FORAKER. That nothing is ever settled until it is settled right is what Mr. Bryan said about his free-silver propo

sition after his defeat in 1896.

Mr. TILLMAN. That does not make it wrong.

Mr. FORAKER. He was defeated, but, learning nothing, he had to be defeated again.

Mr. TILLMAN. Then the popular majority is the arbiter of

right or wrong.

Mr. FORAKER. It is for the time being. Mr. TILLMAN. But not forever, thank God!

Mr. FORAKER. Of course, Mr. President, there is no law in this country prohibiting a man or a party from persisting in error. Mr. TILLMAN. Or persisting in right, either.

Mr. FORAKER. Therefore you were at liberty, so far as any law or custom or usage is concerned, to repeat over again in 1900 the follies that wrecked your political organization in 1896, and notwithstanding the verdict of the American people in 1900, you are at liberty to persist in the position you then occupied with respect to the Philippines.

Mr. CLAY. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. FORAKER. Yes, sir.

Mr. CLAY. I desire to ask the Senator from Ohio if he entertains the same views in regard to the Philippines now that he did two days before we ratified the peace treaty?

Mr. FORAKER. Yes, sir; as far as I know. I do not know what the Senator may call my attention to, but speaking in a

general way, I do.

Mr. CLAY. I want to call the Senator's attention to a very remarkable speech, a speech which had a great deal to do with ratifying the treaty that we made, which was delivered two days before it was ratified. The Senator from Ohio then said:

I do not understand anybody to be proposing to take the Philippine Islands with the idea and view of permanently holding them and denying to the people there the right to have a government of their own, if they are capable of it and want to establish it. I do not understand that anybody wants to do that. I have not heard of anybody who wants to do that. The President of the United States does not, I know, and no Senator in this Chamber has made any such statement.

Mr. FORAKER. Mr. President—

Mr. CLAY. Wait one moment. I am not through yet.

Mr. FORAKER. That is a good speech. I am pleased to have the Senator read it; if he will only study it until he understands it, it will do him good.

Mr. CLAY. It is utterly impossible for anybody to understand it as agreeing with the position of the Senator on this occasion.

Mr. FORAKER. Read it and see.

Mr. CLAY. I want to read the following language, used by the Senator from Ohio on that occasion:

Suppose we ratify the treaty. The islands pass from the possession of Spain into our possession without committing us to any policy. I believe we shall have the wisdom not to attempt to incorporate those islands with our body politic or make their inhabitants a part of our citizenship. I believe we shall have the wisdom, self-restraint, and the ability to restore peace and order in those islands and give their people the opportunity for self-government and freedom under the protecting shield of the United States—

Mr. FORAKER. I stand there precisely still. At that time, Mr. President, we had under consideration the question whether or not we would ratify the treaty of peace. It occurred to me, and, I think, it did to all Senators who voted for the ratification of the treaty, that it was the part of wisdom to take a cession from Spain of her title to the Philippines. Thereby we would bar out all other countries and the matter would be reduced to a question between ourselves and the Philippines.

On the floor of this Chamber it was being charged at that time that we wanted to take possession of the islands for the purpose of holding them perpetually as a colony, and ruling them outside the restraints and limitations of the Constitution and in such a way as to deny them all those personal rights and privileges guar-

anteed by our bill of rights.

I was making an answer to that kind of a speech that had been made just before I addressed the Senate, I think, by the senior Senator from Massachusetts [Mr. Hoar], if I remember now correctly—

Mr. RAWLINS. Mr. President-

Mr. FORAKER. And I said in that connection that that was a matter nobody had yet determined: that it was necessarily a matter left for future determination: that there was no fixed policy in regard to it so far as I was aware; that so far as I was concerned (and I believe that opinion was general), when a government had been established and when the people had shown capacity for government and were set on their way, then we would take into consideration what we would do. I felt that I was safe in prophesying that it would be the will of the American people that they should be allowed self-government under the protection and guardianship of the United States of America, and I think so still.

Mr. RAWLINS. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Chio

yield to the Senator from Utah?

Mr. FORAKER. But that is a matter to be attended to in the future, and so indefinitely in the future that it is worse than idle for us to talk about it here now.

The PRESIDENT pro tempore. Does the Senator from Ohio

vield:

Mr. FORAKER. Certainly.

Mr. RAWLINS. Mr. President, the debate has drifted somewhat from the act.

Mr. FORAKER. I was about to remark that I had not finished

reading it.

Mr. RAWLINS. I want to direct the attention of the Senator back to the provision in the act of the Philippine Commission for the punishment of treason. The Senator, the other day, if I understood him rightly, said that he agreed with President Schurman, who was formerly president of the Philippine Commission, that the eventual independence of the islands should be recognized.

I then invited the attention of the Senator to that section of this act which makes any advocacy of the independence of the islands, whether presently or eventually, whether by forcible or by peaceful means, an offense punishable by fine and imprisonment, and alluded to the statement which has since been verified by General Wheaton, that for such statements as were made by President Schurman, men were sent to prison in the Philippine

Islands.

Now, I want to ask the Senator from Ohio whether to-day he believes in that particular section of the act making the peaceful advocacy of the establishment at some time of the independence of the islands by peaceful means punishable by fine and imprisonment?

In this connection, before the Senator answers, I wish to make a statement of what was told us by the present president of the Commission, Governor Taft. He said at the time that act was passed there was peace throughout the archipelago except in some few remote provinces: that there was no hostility being carried on at Manila or anywhere in the archipelago outside of three

or four provinces. That is the whole of it. Now, I will thank the Senator to answer.

Mr. BACON. If the Senator will pardon me— Mr. FORAKER. That is a sufficient question to answer for the present. The position of Dr. Schurman, of Cornell University, was referred to here in the Senate the other day. I said that I had seen in part what Dr. Schurman had said.

I had not seen his speech. I saw the Associated Press account of it that was published in the papers the morning after it was made, and in that account it was stated that in his speech he had quoted from President Roosevelt's message and had given his interpretation of what that meant, and that in his opinion it was the policy and the purpose of the Government ultimately, some time in the future, after peace, law, and order have been restored and government established and capacity demonstrated, to then give to those people local self-government. I do not know what degree of independence he may have contemplated, but that was the effect of it, and I said I took no exception to that, but agreed with it. and so I do.

Mr. RAWLINS. Will the Senator from Ohio permit me?

Mr. FORAKER. I was not through answering the Senator. Now, wait until I finish my answer.

Mr. RAWLINS. I wish to make just one suggestion.
Mr. FORAKER. I was only half through. Well, go ahead.
Mr. RAWLINS. Mr. President, I only wanted to remark that while measured by the standard of this treason act passed by the Philippine Commission the Senator from South Carolina was denounced by the Senator from Ohio-

Mr. FORAKER. Mr. President, I did not yield to the Senator

to misrepresent what I said.

Mr. RAWLINS. And measured by-

The PRESIDENT pro tempore. The Senator from Ohio de-

clines to yield.

Mr. FORAKER. I decline to yield, and I claim the privilege of the floor that I may correct the statement just made by the Senator from Utah.

The PRESIDENT pro tempore. The Senator from Ohio has the

Mr. FORAKER. I did not denounce the Senator from South Carolina. The Senator from South Carolina announced that he was in sympathy with the Filipinos, and I said if so, in my opinion, the provisions of the Revised Statutes that had just been read were applicable to him if he were to announce that outside of this Chamber. That is what I said. There was no denunciation about it. I presumed even a Senator had a right to an opinion, and has a right to an opinion even when it differs from the minority in this Chamber.

Mr. RAWLINS. Mr. President— Mr. FORAKER. Now, Mr. President, I was answering the question that was asked me a moment ago, in which my attention was called to what Dr. Schurman had said and what I said about Dr. Schurman's statement, and then the Senator wanted to know whether or not I agreed with the provisions of this Philippine act which prohibited the advocacy of independence. I wish to read what that provision is, for it has not been correctly stated by the Senator from Utah.

Of course that was an inadvertence. I understood the Senator to say that according to the provisions of this Philippine act it is made an offense, punishable in the severe way here provided, for people in the Philippine Islands now or ever hereafter to advocate independence. Let'me read what the section is:

Until it has been officially proclaimed that a state of war or insurrection against the authority or sovereignty of the United States no longer exists in the Philippine Islands it shall be unlawful—

And so on. It is not necessary to encumber the RECORD by

reading it all.

In other words, Mr. President, this Philippine act is an emergency statute. It is a statute passed in recognition of belligerent right and belligerent duty. It is a statute passed to aid the authorities representing the Government in the Philippines in the suppression of insurrection and rebellion against our authority, and it is neither an unheard-of statute nor an unusal statute. It is just such a statute as was in force in this country during every war we have ever had.

Mr. CARMACK. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Obio vield to the Senator from Tennessee?

Mr. FORAKER. Yes, sir.

Mr. CARMACK. I wish to call the Senator's attention to the fact that the statute applies the penalties to any person who shall advocate the independence of the Philippine Islands by peaceful methods. In other words, if a number of Filipinos should get to-

gether and prepare a petition-

Mr. FORAKER. Mr. President, that is precisely parallel to what the case would have been if, during the war for the suppression of the rebellion, the Senator by peaceful means, namely, by coming before the people had advocated by speech the cause of secession and the right of a State to secede and overthrow the Government and destroy the Constitution. That would have been treason. It would have been by peaceful means.

That was not tolerated, or, rather, Mr. President, I should say it was tolerated all too much. It was within the power of the Government to prevent by proper measures any such advocacy of the cause of secession as that would have been, although peace-

ful in character.
Mr. HOAR. May I ask the Senator a question?

Mr. CARMACK. I want to know—
Mr. FORAKER. If you will wait a minute I will then yield with pleasure. In the Philippine Islands we are still engaged in war in five of those provinces. I understood from the testimony of Governor Taft (and I accept it without any qualification as true) that there is civil government in operation in all but five of the forty or more provinces in the Philippine Islands.

Mr. CARMACK. What I want to know is— Mr. FORAKER. In those five, however, there is still insurrection. The military and naval power of the Government are at work there to suppress an insurrection and establish and maintain the authority of the United States; and now, while that war is going on, it is treason for a man by any means, peaceful or otherwise, to aid the cause of the enemy of the United States, whether it is by peaceable speech or by taking a sword and gun in his hand.

Mr. CARMACK. The point I was making was that if a man in the Philippine Islands advocates peace and afterwards independence; if he says, "we are opposed to this war; we are for peace, but we want independence after the war is over," he is guilty of a crime under the statute.

Mr. FORAKER. Well, that is a question of construction.
Mr. CARMACK. It applies not simply to a few provinces which are in a state of war. It applies to the pacified provinces. If the people in those pacified provinces say now, "We have here a state of peace and we are in favor of independence; the war is practically over," and if they get up a petition and send it to the Congress of the United States, asking for independence, they are

guilty of a crime under that statute.

Mr. FORAKER. That is a question of construction. I do not understand that the Senator is quoting the statute exactly correct. I do understand that it prohibits the advocacy of the cause of the enemies of the Government. We are there maintaining an army. It is the duty of that army to suppress the insurrection, and it is in a fair way to do it if the enemies of this country in the Philippines do not get too much encouragement from the Congress of the United States. There seems to be some danger of that just now.

Mr. CARMACK. If the Senator will permit me one minute-The PRESIDENT pro tempore. Does the Senator from Ohio

vield to the Senator from Tennessee?

Mr. FORAKER. Certainly. Mr. CARMACK. I will state that, as I understand it, Governor Taft said that the provisions of this statute would apply to a party which has come into existence there advocating peace

and afterwards independence.

Mr. FORAKER. I do not know what his construction of it is. He is a good lawyer. He was a good judge when on the bench. He is undoubtedly more familiar with the statute than I am. I have never been able to read it. I only heard it read from the Secretary's desk. I did not gather from it, however, that it was quite so drastic in that particular as the Senator represents.

Mr. HOAR. Mr. President-The PRESIDENT pro tempore. Does the Senator from Ohio

vield to the Senator from Massachusetts? Mr. FORAKER. I yield to the Senator.

Mr. HOAR. I wish merely to ask the Senator, the Philippine statute saying that anybody who owes allegiance to the United States and does the thing here or elsewhere shall be punished, whether in his judgment his speech, the extract from which was just read, would have rendered him liable to the penalties of that statute if they catch him in the Philippine Islands?

Mr. FORAKER. I would hope not, because I know if it would render me liable to anything, the Senator from Massachu-

setts would have been hanged long ago. [Laughter.]

Mr. TILLMAN. I hope you will not leave me out of that hon-

orable coterie. [Laughter.]

Mr. FORAKER. If you are real anxious to be hanged, you might be accommodated. [Laughter.] But, Mr. President, I hope nobody will be hanged. I should like to see peace restored. I think the best way to restore peace in the Philippine Islands is for the American Congress and everybody else in the United States to let it be understood that we propose to stand by the authority of the United States as it is there represented; that we intend to

Mr. TILLMAN. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER. Certainly. Mr. TILLMAN. If the Senator and his party would let the Constitution go to the Philippine Islands, and would not be setting up a new colonial programme here which our forefathers spewed out of their mouths and drove England off this continent to extirpate, there would not be this opposition. But you are making a departure from every fundamental principle that the American people have ever held and stood by and fought and died for, and that is why we are opposed to your programme.

Mr. FORAKER. Oh, Mr. President, if it were not that excuse

it would be some other.

Mr. TILLMAN. Oh, of course.

When we acquired the Louisiana purchase Mr. FORAKER. the Constitution did not go there any more than it has gone to the Philippines, and not so much.
Mr. TILLMAN. Of course—

Mr. FORAKER. I hope the Senator will not interrupt me for a moment.

The PRESIDENT pro tempore. The Senator from Ohio de-

clines to yield.

Mr. FORAKER. When we acquired Florida by purchase it was the same, and it has been the same as to every other acquisition of territory down until this minute.

Mr. TILLMAN. Does the Senator pretend to say that when we bought Louisiana we did not guarantee the citizens of that territory the same rights as other citizens of the United States?

Mr. FORAKER. I know that in the treaty under which we acquired the Louisiana purchase it was provided that ultimately, when Congress should see fit to determine-

Mr. TILLMAN. The word "ultimately" was not in it; "as soon as practicable."
Mr. FORAKER. Well, let it be "as soon as practicable," then. The same was in the treaty under which we acquired New Mexico and Arizona, and for fifty years they have been outside the Union. It was in those treaties that the inhabitants of the territory so acquired should be ultimately incorporated into the United States as a part of it. But there was no such provision as to Porto Rico or the Philippines.

Mr. TILLMAN. No; it was left out purposely.

Mr. FORAKER. But, Mr. President, it is a very serious question whether or not the treaty-making power had any right to put into that treaty acquiring territory any provision of that kind that would be obligatory upon the Congress of the United States. We are the political power, and the Congress of the United Stetes has the right to determine the relation that any territory shall sustain to the Government of the United States.

Mr. TILLMAN. But the point I want to ask the Senator about is whether he is ever going to let the Constitution and the rights

of American citizens go to the Philippines?
Mr. FORAKER. Mr. President, if the Senator had been diligent in reading what has been done with respect to the Philippines, he would know that the bill of rights, which is all there is in the Constitution practically that guarantees personal rights, is already in the Philippines. It is a part of the organic law under which this Commission is acting.

Mr. TILLMAN. If the bill of rights is there, how does the Taft Commission get the right to deny trial by jury and every-

thing else to those people?

Mr. FORAKER. Well, Mr. President, I can not answer all the questions that the Senator wants to ask.

Mr. TILLMAN. I should think not.

Mr. FORAKER. The provision for trial by jury is not found in the bill of rights. I call attention to the fact—and I did call attention to it a few days ago and put it into the RECORD—that in the letter of instructions given by President McKinley on the 7th day of April, 1900, published in the Annual Report of the War Department for the fiscal year ending June 30, 1901, you will find set out in full every provision of the bill of rights as found in the Constitution of the United States.

Mr. TILLMAN. A ukase.

Mr. FORAKER. What does the Senator say?

Mr. TILLMAN. Coming not from this body, not from the people, but from the Czar, the new Czar we have set up in the

White House.

Mr. FORAKER. President McKinley was the same kind of a czar that Thomas Jefferson was when the Louisiana purchase was made. When Thomas Jefferson was President and we acquired the Louisiana territory he did not stop to ask the people of Louisiana what kind of government they wanted. We simply sent the representatives of the Government down there and told them to establish a government and proceed with its operation, and in time, when Congress saw fit, they established a government without consulting the people or without giving the people the power or right of election.

When we acquired Florida the same thing was done by another Democratic President. Old Andrew Jackson was sent there as the Government's representative, and he did not stop to ask anybody's consent for what he was going to do, but proceeded with the use of the Army to restore law and order and establish the

authority of the United States.

Mr. TİLLMAN. Does the Senator contend that those sparsely settled, wild countries like Louisiana and Florida are the same as the Philippine Islands, where there are 200 or 300 people to the

square mile?

Mr. FORAKER. Yes, Mr. President, there is a difference. I would not consider them just the same. This is a much more difficult proposition in some respects. But the principle is the same whether there be a hundred thousand people in the Territory to be occupied and governed or 10,000,000 people, as there are in the Philippines. That does not make any difference in principle or as to power—

Mr. BACON. Will the Senator pardon me for just a moment?

Mr. FORAKER. Yes.

Mr. BACON. I understood the Senator to say that the Bill of Rights had been extended to the Philippine Islands. Am I correct?

Mr. FORAKER. I understand so.

Mr. BACON. I hold in my hand, Mr. President, what we recog-

nize as the Bill of Rights—the first eight amendments to the Constitution of the United States—and if the Senator will pardon me I will read them—

Mr. FORAKER. I will let you read them.

Mr. BACON. So that we may see as we go along whether there is a single one of them that is permitted in the Philippine Islands.

Mr. FORAKER. On what page is that?

Mr. BACON. I read from the Amendments to the Constitution, the edition of our Manual, page 212.

Mr. FORAKER. Go ahead. I have it here.

Mr. BACON. Article I reads:

#### ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

I should imagine, Mr. President, that in the act which we have had read here to-day there was a somewhat serious effort to interfere with that.

Mr. FORAKER. Anything more serious than in the Revised

Statutes of the United States?

Mr. BACON. Yes; and if the Senator will permit me to I will endeavor to show that.

Mr. FORAKER. I do not want the Senator to do it now.

Mr. BACON. I do not want to do it now. I only want to read this in that connection, and then I will promise not to comment upon it:

ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Which is absolutely prohibited in the Philippine Islands.

## ARTICLE III.

No soldier shall, in time of peace-

Nobody there is permitted to have any firearms, whether he is a soldier or a friend or an enemy.

Mr. FORAKER. Yes.

Mr. BACON. Of course I mean the Filipinos.

## ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

Some of these, of course, are not directly applicable.

#### ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously

ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Mr. FORAKER. That is about all there is of the bill of rights

Mr. BACON. Then Article VIII provides:

## ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Mr. FORAKER. I understand.

Mr. BACON. And I shall be glad if the Senator will point out a single one of them that is in force in the Philippine Islands.

Mr. FORAKER. I will take very great pleasure in doing so. I wish to correct what I said a while ago to this extent. The guaranty of the bill of rights that the people shall be allowed to bear arms is not one of the provisions of the organic law found in the instructions of the President; but that, Mr. President, we understand the reason for. It is because they have a state of war over there, and we are not bound to grant our enemies permission to carry guns.

Mr. SPOONER. There is nothing in the bill of rights, if the

Senator will permit me-

The PRESIDING OFFICER (Mr. Pettus in the chair). The Senator from Ohio is entitled to the floor. Does he yield?

Mr. FORAKER. Yes.

Mr. HOAR. What do you call the bill of rights—the amend-

ments to the Constitution or the original bill of rights?

Mr. SPOONER. There is nothing in the bill of rights, which has been read by the Senator, that I suppose he would claim would deprive the Government of the United States of the exercise of the power to prevent those who are levying war against the United States from bearing arms?

Mr. FORAKER. That is what I was calling attention to. Mr. BACON. Mr. President—

Mr. FORAKER. Now, if the Senator will allow me, I will read what I refer to. After calling attention to the character of the Commission and the work in a general way which they are to perform, and admonishing them that they must remember the spirit and the great principles of our form of government, the President proceeded to say—I read from page 8 of this work:

Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules:

That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense; that excessive ball shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be giolated; that in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be yiolated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or ex post facto law shall be passed; that no law shall be passed abridging the freedom of speech, or of the press, or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances; that no law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forwar be allowed discrimination or preference shall forever be allowed.

Now I call upon the Senator from Georgia to admit, as he must; that every provision of the bill of rights is incorporated, by the the language I have just read, into the instructions given by the President to the Taft Commission when he sent it there to establish a civil government.

Mr. BACON. As the Senator calls upon me, I suppose I am

entitled to answer, and I will do so very briefly.

Mr. FORAKER. I did not mean to call upon the Senator in a disrespectful way.

Mr. BACON. Of course not.

Mr. FORAKER. I perhaps should have said that I called his attention to it.

Mr. BACON. Not at all.

The PRESIDING OFFICER. The Senator from Ohio is entitled to the floor. Does he yield?

Mr. FORAKER. After saying what I have I perhaps should yield, but I would rather not do so.

Mr. BACON. I shall not intrude upon the Senator.

Mr. FORAKER. I prefer that the Senator should take the floor at another time. I do not want to trespass unduly upon the Senate.

Mr. BACON. Mr. President-

The PRESIDING OFFICER. The Senator from Ohio is entitled to the floor, and the Senator from Georgia is out of order.

Mr. FORAKER. I vield.

Mr. BACON. I will not undertake-

The PRESIDING OFFICER. The Senator is out of order.

Mr. BACON. The Senator from Ohio yielded to me.

Mr. FORAKER. I have yielded to the Senator from Georgia. The PRESIDING OFFICER. But the Senator from Georgia failed to address the Chair and to get permission of the Chair to

Mr. BACON. Mr. President-

The PRESIDING OFFICER. The Senator from Georgia will

proceed.

Mr. BACON. Mr. President, the point to which I desired to have the attention of the learned Senator was not the question of the instructions of the President—certainly not those alone—but what had been done under the instructions of the President.

The learned Senator from Wisconsin [Mr. Spooner] suggests, and the equally learned Senator from Ohio, I should say in order to make no distinction, echoes the suggestion, that the provision with reference to the bearing of arms certainly never was intended to apply to those who are in arms against the Government.

But the point that I make is as to the statement upon the floor that 40 out of 45 of the Philippine provinces are not now in insurrection, but have been pacified; and yet I state as a fact, and I challenge denial, that there is not a single one of the 45 provinces in which any Filipino is allowed either to bear arms or to have arms.

Mr. FORAKER. Mr. President, I call the Senator's attention, if he will allow me, to the fact that the instructions I have read were given on the 7th day of April, 1900, at which time there was a very different condition of things in the Philippines.

Mr. BACON. Those were the instructions then. I am speak-

ing of the conditions now and the regulations now.

Mr. FORAKER. I hope the Senator will allow me-Mr. BACON. Just one word, and I will not go further. . I simply invite the attention of the Senator—while of course there is a very great temptation to go further—I now simply invite his reply to the question, not whether it is proper or not, but whether it be true or not, that the act of the Philippine Commission, not with reference to treason as urged by him, but whether the eighth, ninth, and tenth provisions of that act, which the Senator has not yet discussed, are in conflict with this section of what is generally called the bill of rights, and especially the one with reference to freedom of speech.

Mr. FORAKER. I see what it is, Mr. President. Our organic law was intended, so far as all these provisions are concerned, for a time of peace. When there comes a time of war, the emergencies of war make many things necessary that are not contemplated; but I see nothing in these provisions to which my attention is particularly called that the Senator has any right to take exception to as inconsistent with the instructions given by the

President, as I have read them.

They are, in the first place, Mr. President, a prohibition upon every person who shall utter seditious words or in any way seek to stir up for unlawful purposes—

Mr. BACON. Read all of it.

Mr. FORAKER. I wanted to save time, but I will take a great deal of pleasure in doing so, if I do not unduly detain the Senate, though I read it before—

Mr. BACON. No; you have not read it all.

Mr. FORAKER. I will read it again, and you will then see that I did.

SEC. 8. Every person who shall utter seditions words or speeches; write, publish, or circulate scurrilous libels against the Government of the United States or the insular government of the Philippine Islands, or which tend to disturb or obstruct any lawful officer in executing his office, or which tend to instigate others to cabal or meet together for unlawful purposes, or which suggest or incite rebellious conspiracies or riots, or which tend to stir up the people against the lawful authorities or to disturb the peace of the community, the safety and order of the government, or who shall knowingly conceal such evil practices, shall be punished by a fine not exceeding \$2,000, or by imprisonment not exceeding two years, or both, in the discretion of the court.

Mr. President, that is a statute that I can not add to by stopping to explain it or to comment upon it. It simply prohibits all acts, all talk, all efforts of a seditious character that are intended to obstruct unlawfully the authority of the United States. Now comes section 9:

Sec. 9. All persons who shall meet together for the purpose of forming, or who shall form, any secret society, or who shall, after the passage of this act, continue membership in a society already formed, having for its object—

Now, note what the object is—

in whole or in part, the promotion of treason, rebellion, or sedition, or the promulgation of any political opinion or policy, shall be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both.

Let me ask----

Mr. PATTERSON. Will the Senator allow me?

The PRESIDING OFFICER. The Senator is out of order. Mr. PATTERSON. I call attention to the phrase "the pro-

mulgation of any political opinion or policy shall be punished."
Mr. FORAKER. I will say that I might make a very good
reply to the Senator from Colorado by inquiring of him whether
or not he imagines that if he were now in the Philippines his
liberty would be interfered with by the provisions of this section?

Mr. PATTERSON. I think it might.

Mr. FORAKER. This section can not touch anybody who does not join a secret society, or continues in a secret society, he already belonging to one, which is organized for the purpose of fomenting and promulgating treason against the United States.

Mr. PATTERSON. That is not the language.

Mr. President-Mr. TILLMAN.

Mr. FORAKER. Wait a moment until I answer that. I will read the section again:

SEC. 9. All persons who shall meet together for the purpose of forming, or who shall form, any secret society, or who shall, after the passage of this act, continue membership in a society already formed, having for its object, in whole or in part, the promotion of treason, rebellion, or sedition, or the promulgation of any political opinion or policy, shall be punished by a fine not exceeding \$1.000 or by imprisonment not exceeding one year, or both.

Mr. PATTERSON. The promulgation refers to any political

What does the honorable Senator say to that?

The PRESIDING OFFICER. The Senator from Colorado is out of order.

Mr. PATTERSON. I hope my words have been taken down. The PRESIDING OFFICER. The Senator from Colorado will take his seat. The Senator from Ohio is entitled to the floor.

Mr. FORAKER. Why, Mr. President, there is not one word in this statute from the beginning to the ending of it that would touch any man loyal to the United States—not one.

Mr. TILLMAN. Mr. President

Mr. FORAKER. Let me finish another section. I want to read that before I yield, and then I will hear the Senator.

SEC. 10. Until it has been officially proclaimed that a state of war or insur-SEC. 10. Until it has been officially proclaimed that a state of war or insurrection against the authority or sovereignty of the United States no longer exists in the Philippine Islands it shall be unlawful for any persons to advocate orally, or by writing, or printing, or like methods, the independence of the Philippine Islands or their separation from the United States, whether by peaceable or forcible means, or to print, publish, or circulate any handbill, newspaper, or other publication advocating such independence or separation.

Any person violating the provisions of this section shall be punished by a fine of not exceeding \$2,000 and imprisonment not exceeding one year.

Now, Mr. President, as I said a while ago when commenting on that section, which the Senator from Georgia thought I had not read, they have war in the Philippines, and that is what we must remember. Our armies are confronting the battalions of the insurgents, or banditti, I should rather say, of the insurgents. It is a condition of war that they are legislating about.

The question is whether our authority shall be upheld or whether an independent authority shall be established there; and this declaration of the Philippine Commission is that it shall be an offense against the civil law for anybody to advocate that which our armies are there to suppress. Is there anything re-

markable about that?

Mr. TILLMAN. Now, will the Senator permit me?
The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from South Carolina?

Mr. FORAKER Yes.

The Senator said a few moments ago that if Mr. TILLMAN. I were not here in my official capacity I would have laid myself open to the charge of treason-

Mr. FORAKER. You have not been thinking about that all

this while, have you? [Laughter.]

Mr. TILLMAN. I have been thinking about that, and the Senator throws so much additional light upon my pitiable condition that if I should happen to go into this new possession of ours I

would be really alarmed. [Laughter.]
Mr. FORAKER. Then I made more of an impression upon the Senator than I supposed I had. [Laughter.]

Mr. TILLMAN. I want to ask the Senator a question.

The PRESIDING OFFICER. Both the Senators are out of

order.
Mr. TILLMAN. Have I permission of the Chair to address

The PRESIDING OFFICER. To address the Senate, certainly.

The Senator from South Carolina.

Mr. TILLMAN. I should like to ask the Senator from Ohio a question. I have read in the reports of General MacArthur, and I have heard it quoted, but have not read it, from the reports of General Chaffee, that practically the entire Filipino population are saturated with this hatred of the American people and this desire for liberty.

Now, I want to ask the Senator, after our experience of three years, after our throttling the aspirations of those people for liberty, which we had taught them to hope for, must we continue this infamous, tyrannical, British, South African, Spanish-I will stop right there; I will not put in the other words, because I can

not find any harsh enough to express my indignation-

Mr. FORAKER. Mr. President, I apprehend that the present policy will be continued until, like all other policies of the Republican party, it has been made a triumphant success, and without any help from my friend from South Carolina [Mr. TILLMAN] or those who are affiliated with him. In the Philippine Islands we

have a great task.

It is one nobody sought; it is one we assumed because of the fortunes of war: it was thrust upon us, and we undertook it with more or less misgiving, all of us recognizing its serious character. We all had hesitation; we all had doubt as to the step we should take; but when that step was taken, when we acquired those possessions, when we put up our flag there, when we sent our armies there, it was irrevocably settled that they would remain until our cause was victorious.

That may just as well be accepted as a settled fact. Gentlemen may rail about it in Congress or outside, newspapers may comment about it; but the American people having taken possession, we will establish law and order; we will set up a government; we will put it in operation, and we will give the blessings of our free institutions to all who are there to share in the protection we will extend, and not until all that is accomplished will we

think of anything else.

Mr. TILLMAN. Now will the Senator permit me?

Mr. FORAKER. Yes, I will. I do not want to, though.

Mr. TILLMAN. I will simply give you a quotation. They "make a solitude and call it peace."

Mr. FORAKER. Mr. President, we heard very much of that same kind of talk when we were trying to legislate about Porto Rico. While proposing that legislation we heard from the Senator's side of the Chamber that it was tyrannical; that it was unjust; that it was unwise; that it was un-American.

Mr. CARMACK. Yes; and you heard it from the President of

the United States.

Mr. FORAKER. No, Mr. President; we did not hear it from

the President of the United States. The President of the United States in his message said this, which the Senator doubtless has in mind, that it was our "plain duty" to give the people of Porto

Rico free trade.

The President of the United States made that recommedation in good faith. And we did give it to them. But when we came to undertake the task of legislation and to make an examination and ascertain the facts, we found out that there must be a civil government there; we found that if we would give them a civil government it must have a revenue to support it, and if it should have revenues to support it, it must have some system of taxation. They had no system of property taxation, and never had had any in Porto Rico. There was no system except to collect tariff duties and excise taxes, and the revenues so collected were insufficient to meet the necessary estimated expenses of the civil government we were establishing.

In that emergency, to meet that necessity, remembering the President's recommendation and sharing in the sympathy that he had expressed in that regard, we provided what? That on certain products between Porto Rico and the United States in commerce there should be collected 15 per cent of the Dingley rates for a period not longer than until the 1st day of March, 1902, or as much less than that time as they might be able to set up a government of their own, establish a tax system, put it in operation.

and provide themselves a revenue.

And so successful was the government we established, over the votes of the minority in this Chamber and in the other House, that on the 4th day of last July absolute free trade was given between Porto Rico and the United States, just as the President said it was our "plain duty" to do.

Mr. CARMACK. Finally you did your duty.

Mr. FORAKER. What is that?

Mr. CARMACK. Finally you did your duty.

The PRESIDING OFFICER. The Senator from Tennessee

must observe the rules.

Mr. FORAKER. I yield. What was the remark of the Senator? Mr. CARMACK. The remark was simply that, finally you did your plain duty, and finally did what the President of the United States and the Democratic party thought you ought to have done in the beginning.

Mr. FORAKER. When the President made that recommendation he knew about Porto Rico only in a general way; I knew about it only in a general way, and other Senators knew about it only in a general way; but when the committees were organized, a committee was appointed, and it was made the duty of that committee to examine as to the conditions in Porto Rico, and we discovered presently conditions that nobody had been there-

tofore aware of.

We found a million people there, 850,000 of whom could not read or write a single word in any language; we found more than 500,000 people in Porto Rico who had never owned a dollar's worth of property in their lives, and who apparently did not ever want to own a dollar's worth of property. That was the character of the people. They were without revenue and without government. The demand of the minority was that we should immediately give them the writ of habeas corpus and trial by jury, when there was not a lawyer in all the island or a judge upon the bench there who knew what habeas corpus and trial by jury meant.

Mr. CARMACK. I think the Senator is very much mistaken. The PRESIDING OFFICER. Does the Senator from Ohio Does the Senator from Ohio vield to the Senator from Tennessee?

Mr. FORAKER. Yes; I will yield. The PRESIDING OFFICER. The Senator from Tennessee. Mr. CARMACK. I think the Senator from Ohio is very much mistaken in that statement.

Mr. FOR'AKER. In what statement?

Mr. CARMACK. If I remember correctly, Porto Rico exercised the right of self-government under Spain before it was taken by the United States. I know there were some very able lawyers from Porto Rico before our committee, the Committee on Insular Affairs of the House of Representatives, who stated that they were getting along exceedingly well under Spain, which had accorded to them the right of civil government in Porto Rico, and that they had a representative in the Spanish Cortez.

I will make another suggestion to the Senator from Ohio. He says after the committee got to examining into this matter they found out they had to impose a tariff on Porto Rican products. I will suggest to the Senator that the committee of the House, after very careful consideration, brought in a bill in accordance with the recommendations of the President, and that the sudden change of position was suspiciously simultaneous with the appearance of a very powerful lobby here about the halls of Congress.

Mr. FORAKER. Oh, Mr. President, we have heard that kind of an insinuation before. It is unworthy the Senator from Tennessee to make such a suggestion in this Chamber or anywhere else. The suggestion was that the imposition of the tariff on sugar and tobacco was in the interest of the tobacco trust and the sugar trust of this country. That was insisted upon notwithstanding the fact that the legislation was in strict opposition to their interests.

Mr. CARMACK. I have never said anything about the sugar trust.

Mr. FORAKER. It is the most utter nonsense, and, as I said before, it is unworthy the Senator. The testimony was taken. It is in the record. It can be consulted by the Senator. He will find that in the first place I introduced a bill providing for free It was referred to my committee. We examined into trade. the subject. We called witnesses from Porto Rico. They told us of this poverty-stricken condition, of the inability of the people to pay revenue to support a government, and of the character of taxes they were paying.

And as a result of as careful consideration as any subject ever received at the hands of a committee—and that will be testified to by the Democratic members of the committee—we reported honestly, in good faith, as a necessity of the situation, that for the time being there should be 15 per cent levied on products passing commercially between the countries. That was a signal for a great outcry. It was tyranny: it was oppression; it was taxation without representation. We had forgotten the Declaration of Independence, the Senator and others told us.

Mr. President, there was not anything of the kind about it. It was simply an honest, patriotic effort to endeavor to legislate for the people of Porto Rico according to the necessities of that situation, and we met the necessities of it, and the result is a prosperity to-day and for the future of which the Porto Ricans are proud, and of which every American ought to be proud who had any part in bringing it about, and every American who opposed it, as the Senator did, ought to have regret that he did not help to do that thing, so beneficent in its results. And as it was in Porto Rico, so is it in the Philippines.

Mr. BACON. Will the Senator permit me to ask him a ques-

Mr. FORAKER. I want to quit, but I will yield.

Mr. BACON. I want to ask one question. As the Senator is speaking of the great liberality and generosity and humanity of the United States in its treatment of Porto Rico, I wish to ask him if he does not remember when that bill was before the Senate, containing as it did a provision for the recoinage of Porto Rican silver, that there was an effort made, on the part of the minority, whom he says should now so greatly regret what they did, to insert a provision in the bill to the effect that when the Porto Rican coins were recoined by the United States Government, the seigniorage should not go into the Treasury of the United States, but that the Porto Ricans should have the benefit of it.

A calculation was made, and it was read to the Senate by the then Senator from Tennessee. Mr. Turley, in which he showed— I have forgotten how much—that a very large sum of money in that recoinage would come into the Treasury of the United An appeal was made here that the Senator and those who acted with him would permit the poor Porto Ricans to have that money, and the Senator and those who acted with him denied it, and required that the money should go into the Treasury of the

United States, and that the Porto Ricans should lose it.

Mr. FORAKER. Mr. President-

Mr. BACON. And I will say to the Senator, if he will pardon me just one second more, that if I remember correctly the amount of that seigniorage equaled what it was estimated would go into the coffers of the Porto Rican local treasury by reason of the tariff which was about to be enacted. So we were taking it from them with one hand and giving it to them with the other.

Mr. FORAKER. I remember very well indeed what the Senator refers to. Instead of the provision that he and his associates sought to put into that bill we incorporated this: We would take up their pesos, worth in our money about 48 cents on the dollar, at 60 cents each in American money, giving them 12 cents on every peso of absolute profit. Then on top of that we gave them more than \$2,000,000, an absolute gratuity, out of the Treasury of the United States.

On top of that we gave them all the revenues collected in the island on the importation of foreign goods and the revenues on imports from that country into this and from this country into that, allowing them to put it all into their treasury, instead of putting it into our own for the benefit of the whole country, as we did in the case of Louisiana and every other Territory we have ever annexed. So it is Mr. BACON. Will

Will the Senator allow me?

Mr. FORAKER. Pardon me for just one moment.

The PRESIDING OFFICER. Does the Senator from Ohio

yield to the Senator from Georgia?

Mr. FORAKER. In one moment I will. We not only did that, but we spared them from the operation of our internal-revenue taxes, authorizing them to establish an excise system of their own far less burdensome and harsh than ours, and we authorized them to put every dollar of the money so derived into their treasury, something unheard of in legislation for any Territory be-

longing to the United States.

So our legislation with respect to Porto Rico was not only wise, as demonstrated by results, but it was the most generous, the most liberal, the least burdensome to them that was ever enacted by this or any other country in all time for a possession such as Porto Rico is. It is without precedent in the history of the legislation of the world.

Mr. BACON. Will the Senator permit me to ask him a ques-

tion?

Mr. FORAKER. Certainly.

Mr. BACON. Do I understand the Senator to deny the fact that under the provisions of that law as enacted the coinage of the silver in Porto Rico put about \$2,000,000 into the Treasury of the United States, and that there was an absolute refusal on the part of the Senator to permit the change in the bill which would have given Porto Rico that \$2,000,000?

Mr. FORAKER. I do not remember just what it figured out.

Mr. BACON. About that sum.

Mr. FORAKER. It seems to me the amount which the Senator has named is too large, but conceding it is \$2,000,000 or \$4,000,000—

Mr. BACON. I do not pretend that it was so large a sum as

that

Mr. FORAKER. Let it be whatever you say. My answer to that, as the Senate answered then, is that we were not going into free coinage. We were not going into any of these schemes for the coinage of silver money, such as were advocated in other connections, but we would make an honest and liberal transaction with the Porto Rican by which we would give him 12 cents on the peso more than he had any right to expect.

We took all their money and gave them our money instead, and there is not a human being on the island of Porto Rico who has ever found fault with what we did in that respect. To find critics you must come to the Democratic party of the United States.

Mr. BACON. The Senator grows eloquent, but he does not an-

swer the question.

Mr. FORAKER. I think I have.

Mr. BACON. The Senator does not answer the precise question. He is boasting of the great liberality to the Porto Ricans. The precise question which I ask is, whether under that act, not passed inadvertently as to this particular feature, but over the protests of others, the seigniorage on the coinage of that silver, which we asked should go to Porto Rico, did not go into the Treasury?

Mr. FORAKER. We did not concede that it should go to the Porto Ricans instead of the United States any more than we would

concede it in any other case.

Mr. BACON. I ask the question was that done or not?

Mr. FORAKER. We simply applied to the Porto Rican transaction the same rule precisely that we have followed with respect to the acquirement of silver and its coinage when we buy from others; we then go into the market and pay the market price. If we had treated Porto Rico as we treat our own people we would have paid but 48 cents for it at that time. Instead of that we paid them 60 cents, and that, I say, was a most liberal trans-

That is all I can say about it. These are matters about

which men will differ.

I want to hasten to a conclusion. I intended calling attention, when I started out, to the statute and to emphasize the fact which must have occurred to every Senator who listened to its reading at the desk that it is almost word for word the statute that is in force in this country to-day, and which has been in force since the very beginning of our Government in respect to the definition of treason, and the penalties and punishments that shall be inflicted upon conviction.

If you will take the statutes and compare them you will find that necessarily the Commission had our own statute before them when they framed this. The section which the Senator from Massachusetts particularly complained about is word for word. from beginning to end, a copy of our own statute. His only excuse for complaining of its enactment in the Philippines, I under-

stand. is that it is liable to be violated over there.

I take it the framers of our statute—our fathers who organized our Government—supposed that that statute would be violated. As the Senator from Wisconsin has suggested to me, it was not only understood by the men who framed our Government, but it was understood by the men who drew and adopted the Declara-

tion of Independence, of which we have heard so much.

They believed in government. They believed in sovereignty. They believed in that government exercising the power necessary to preserve and protect and perpetuate its life against foreign or domestic foes. They believed not only in protecting against foreign foes and domestic foes in arms, but also against those who would conspire by joining secret societies and forming cabals and otherwise engaging in works of sedition calculated to obstruct the authorities and work the overthrow of the Government. They legislated accordingly. That is all there is to it.

Mr. RAWLINS. While the Senator is alluding to the act of our forefathers, I would invite his attention to the act known as the alien and sedition law, from which I think this act of the Philippine Commission is more literally transcribed than from the act which is now contained in the Revised Statutes of the United States; and while the ancestor of his political party perhaps occupied the same position as the Senator does to-day in its advocacy of that measure, it was disapproved by the fathers, and at the next election that party was overthrown and the founder of the Democratic party was elected President of the United States.

Mr. FORAKER. At another time I will take up the alien and sedition law, if the Senator insists upon it, but now, in view of the lateness of the hour and the long time I have trespassed upon the Senate—I will not say trespassed, for I do not believe any Senator is trespassing when he is addressing the Senate—but in view of the long time I have been indulged, I want to conclude at

this point.





## THE SHIP SUBSIDY BILL.

# SPEECH

OF

# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES,

MARCH 14, 1902.

WASHINGTON.
1902.



## SPEECH

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# HON. J. B. FORAKER.

## PROMOTION OF COMMERCE.

Mr. FORAKER. Mr. President, I ask that the unfinished busi-

ness may be laid before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1348) to provide for ocean mail service between the United States and foreign ports, and the common defense; to promote commerce, and to encourage the deep-sea fisheries.

Mr. FORAKER. Mr. President, the debate on this bill is already quite extended. It has been, I think I can safely say, as thorough and as fair and quite as exhaustive a debate as any I have seen since I have been a member of this body. I very much doubt if there can be said at this time anything on either side that will excite interest or be profitable to this discussion. Under such circumstances, one might very well forego his privilege of participating in the debate, and I have been very strongly inclined to do so. And yet it has occurred to me that I shall feel better satisfied if, in addition to casting my vote for this measure, as I intend to do, I shall also take advantage of this opportunity to briefly, at least, express the views that impel me to that action.

In the first place, before taking up this measure to discuss it on its merits. I want to frankly say that I am not entirely satisfied with it. My lack of satisfaction is due to the fact that ever since I first had occasion to investigate the condition of our merchant marine and to study the question of its restoration, I have been clearly and unqualifiedly of the opinion that the best and most equitable and most scientific and satisfactory way to accomplish that object, so far, at least, as our freight-carrying vessels are concerned, would be to reinaugurate the policy of discriminating duties, under which, in the earlier days of the Republic, our fathers made our merchant marine the pride and the boast of every American.

I know what the objections are to a return to that policy. They were stated briefly but very forcibly by the Senator having the

bill in charge when he opened this debate.

Mr. BACON. Will the Senator pardon me? Mr. President, I ask that there may be order in the Chamber. There is such a buzz of conversation that while we can hear the Senator of course, it very much interferes with the satisfaction of hearing him.

The PRESIDENT pro tempore. The Senate will be in order.
Mr. FORAKER. I was just saying, before the Senator from
Georgia kindly interrupted me, and I thank him for it. that the
objections to a return to the policy of discriminating duties
were well stated by the chairman of the Committee on Commerce, the Senator having this bill in charge, in his opening
speech when he presented the measure to the Senate. They are

that there are commercial treaties—34 of them, I think he said which stand in the way, and if we should return to that policy it is contended that we would incite retaliatory measures that would do us more harm than a pursuit of the policy would do us good.

So far as the treaties are concerned, they all provide by their terms for their abrogation upon notice, so that as a practical question there is no difficulty there. So far as retaliation is concerned, it is a matter of speculation what the result would be in that re-I would not fear it. I do not see how those who carry to-day more than 90 per cent of our foreign commerce could very seriously retaliate upon the less than 10 per cent that we carry in

American bottoms.

But, Mr. President, I do not refer to this policy for the purpose of discussing it. I refer to it simply in justice to my own record on this subject. It is a matter of no consequence to any other Senator here, but it is a matter of a good deal of satisfaction to me that I be consistent with myself. I have had occasion to speak frequently on this subject in public, and I have uniformly expressed the view, and contended for it, that I have just now announced. One notable occasion when I contended for that view was at the national Republican convention in 1896, when I happened to be a member of the committee on resolutions and assisted in the framing of a plank which made that proposition Republican policy.

But, Mr. President, although I am still of that view, I have found during my service here in the Senate that it is an idle thing to undertake to legislate so as to provide for a return to the policy of discriminating duties. When you want to accom-plish something by legislation in a parliamentary body, it is highly important that you have a majority in favor of the proposition, and there is not a majority here in favor of it; but, on the contrary, I have learned after very diligently addressing myself to this subject that there is a majority of the contrary opinion.

Therefore I put the policy of discriminating duties aside as impossible, and that being impossible I look for the next best thing, and in my opinion we have it in the subsidy measure that is pre-

sented by this bill.

Mr. TELLER. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly. Mr. TELLER. I wish to inquire of the Senator from Ohio if he means that there has ever been any expression by this body on that question. I have no knowledge of any such expression. Mr. FORAKER. No.
Mr. TELLER. We have some of us wanted to vote for it,

but we never had an opportunity.

Mr. FORAKER. I did not mean that there had ever been any expression by this body. I simply mean that having a good deal of interest in this subject in a general way I have taken occasion to find out the views of other Senators, particularly my colleagues on the Republican side, and I know that they are generally of the opinion, for the reasons expressed by the chairman of the Committee on Commerce to which I referred, that a return to the policy of discriminating duties would be impracticable; and, therefore, if we are to aid the merchant marine at all we must

aid it in some other way, and this is the way which, in their

judgment, is most practicable.
Mr. TELLER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio

Mr. FORAKER. Certainly.

Mr. TELLER. I suppose, then, the Senator means simply to say that the Republicans of this body are opposed to that system. Mr. FORAKER. I simply mean to say that in my belief a majority of the Republican members of the Senate are of the

opinion that a return to the policy of discriminating duties is impracticable for the reasons mentioned, because of the commercial treaties that stand in the way and because of the fear they have that there would be retaliation upon our merchant marine.

Mr. TELLER. Notwithstanding the platform of 1896? Mr. FORAKER. Mr. President, it may be that I ought to take upon myself a good part of that responsibility. I happened to be chairman of the committee on resolutions. I am so constituted by nature that I must have rather positive views, if I have any at all, on any subject in which I become interested. I had given some attention to that subject and I had views about it. was my view, and I contended for it in the committee. I think the Senator from Colorado, who was a member of the subcommittee and assisted in the framing of that plank, will well remember what I refer to and that I was very contentious about it.

Mr. TELLER. I should like to say, if it does not interfere with the Senator, that I recollect very well the effort the Senator made on that occasion, and it seemed then to be the sentiment, as I supposed, of the Republican party, at least so far as the committee was concerned. I joined with him in the desire to return to those duties, believing myself that, as he says, it would restore

our foreign commerce.

Mr. FORAKER. All I wanted to say, Mr. President, was that I have not changed my view about that policy. But what I want is a restoration of the merchant marine, and if I can not get it in one way because a majority of this body think that way is impracticable, if I can not induce them to accept my opinion and my judgment, then I am willing to do the next best thing and accept their opinion and their judgment as to what is most practicable and what is the best way to accomplish this object.

I am not a member of the Committee on Commerce. know all that has occurred in that committee room, but I do know that the members of that committee are capable men and patriotic men. I know that they are interested in this subject. I know that they have given years of study and thought to it, and I know that some of them have been attempting to legislate about it for many years. I am disposed, therefore, when they do not accept my view, rather than have everything come to naught, to accept their view, which in all probability is the wiser view.

Therefore it is, Mr. President, that I am here not contending for what I think would be the best way to restore the merchant marine, but to contend for the way proposed by the Committee on

Commerce in the bill which they have reported to us.

Now, this is a bill which provides for restoring the merchant marine by a grant of subsidies. We heard a good deal about this only vesterday. The Senator from Arkansas [Mr. Berry] made one of his usually eloquent and impassioned addresses to the Senate. He told us that the proposition of this measure to pay subsidies was class legislation; that it was in violation of that spirit of equality to all classes which was at the bottom of our Constitution and our institutions, and he had a great deal to say as to who are to be the beneficiaries of this measure if it shall be enacted into a law.

Mr. President, I am not surprised to hear the Senator from Arkansas talking about this being class legislation, for the Senator from Arkansas belongs to a school of American statesmen who have been talking about class legislation whenever we have undertaken to protect and develop an industry during the last hundred years. Ever since the beginning of our Government, ever since we have undertaken by legislation to protect and foster and develop industries in this country, there have been men to stand up and oppose it—honestly, sincerely, no doubt—upon the ground that it was an effort to take the money of the people out of the common Treasury and put it into the pockets of some

favored class who were to get the benefit of it.

We can all remember within the time of the Senator from Arkansas how we had to meet here in the halls of Congress and all over the United States the same contention when we wanted to levy a tariff duty for the development of the iron industry in this country. They told us it was class legislation; that we were but undertaking to take money out of the pockets of the people and put it into the pockets of the ironmasters of the country; that we were robbing the farmers and we were robbing the laboring men. They said the same thing when we undertook to protect the steel industry, the glass industry, the tin-plate industry, and every other industry that we have legislated about for the purpose of protecting it and fostering and developing it. Now, when we undertake to legislate about this industry, they make the same contention. There is nothing new in it. In the language of patent law, it is not invention but only "a new use of an old article." We are entirely familiar with all that the Senator said, and know from long experience how to appreciate it.

Therefore, Mr. President, I want to say at the beginning that in favoring a proposition that provides that the Government shall pay subsidies for the restoration of our merchant marine I do not regard myself as favoring class legislation in the sense in which that contention was made yesterday by the Senator from Arkansas any more than we were favoring class legislation when we enacted the protective tariff law, under which the prosperity that came with the Republican party in 1860 was set into operation and by virtue of which legislation it has continued ever since. It was not class legislation to provide that we should develop our own resources, that we should vary our industries, that we should employ our labor, that we should have home markets. That was not for the benefit alone of the ironmaster, or the steel manufacturer, or the tin-plate manufacturer, or any other particular

class.

In the presence of the magnificent results we have witnessed all ought to be able to see that instead of this having been class legislation it was legislation that has benefited all classes and all sections alike, for the prosperity that has come to our people is a prosperity which all enjoy, which is not limited to any class or any section or any part of this country. And as, Mr. President, when we were legislating to develop these home industries, when we were legislating to establish home markets, we were legislat

ing for the benefit of the farmer as well as for the benefit of the manufacturer, so is it true that now, legislating to restore our merchant marine, we are not legislating for a single class, but we are legislating for the benefit of all the people of the United States, for the farmers and the wage workers of our country as much as for any other class. They are not the direct beneficiaries in the sense that the money will be paid to them, but they are the direct beneficiaries in the sense that they will share in the benefits that are to be derived from having a merchant marine.

Before I pass from that I want to call attention to another statement made by the Senator from Arkansas on yesterday. He told us in the course of his remarks not only that this was class legislation, but that the beneficiaries of this class legislation would be the purchasers of the Leyland, the White Star, and the other lines referred to; and in that behalf the Senator caused to be sent to the desk and read and incorporated into the RECORD an article from the New York Journal of Commerce, in which there was a very extended and rather sensational account of a purchase by American capitalists of a number of foreign steamship lines. I have the article before me and will refer to it. The lines said to be purchased were the White Star, the American Line to Southampton, the Red Star Line to Antwerp, the Leyland Line to Liverpool, the Atlantic Transport Line to London, the Dominion to Liverpool and London, and the Mediterranean from

Now, Mr. President, I do not know whether all these lines have been purchased by these capitalists or not. I have no information on that subject other than the Senator seemed to have, and he did not seem to have any except what he got from this newspaper article. I do know that the Leyland Line has been purchased: that is. I know it in the sense that I have been officially informed to that effect, as every other member of the Senate has been, in the report of the Commissioner of Navigation—that is, I believe, his title—Mr. Chamberlain, who has been quite frequently referred to in the course of these debates on both sides. In his annual report he tells us that Mr. Morgan and his associates purchased the Leyland Line and they are now its owners. I do not know whether any other line has been purchased or not.

But, Mr. President, let us stop and consider what of it if there have been other purchases. In the first place, it is not possible for the purchasers of those lines to get any benefit whatever for those lines or any ship in those lines under the bill now under consideration. The ships belonging to those lines are all foreign

built and heretofore have been foreign owned.

Mr. BERRY. Not all of them, Mr. President. Will the Senator permit me?

Mr. FORAKER. Of course.

Mr. BERRY. It was alleged that Mr. Morgan bought the American Line, that is the line belonging to the International Navigation Company.
Mr. FORAKER. That is already an American line. That

would not change the situation.

Mr. BERRY. The Senator said all the lines were foreign lines.

He was mistaken in that statement.

Mr. FORAKER. I said all the lines I mentioned were foreign lines. I was not speaking of the American Line. I will speak of that presently.

Mr. BERRY. But the Senator read the name of that line, too.

Mr. FORAKER. Then I beg the Senator's pardon. I did not intend to do so. I intended simply to call attention to what this article said as to foreign lines. So far as those lines are concerned, every one of them is a foreign line except the American Line, and every ship in those lines is foreign built and has been heretofore a foreign-owned ship, and is now a foreign-built ship but American owned.

That being the case, this bill can not, if it becomes a law, be of the slightest benefit to the owners of these lines. The Senator from Arkansas was mistaken, therefore, when he said Mr. Morgan and his associates, as these purchasers, were to be the beneficiaries of the legislation. The bill itself conclusively answers that

claim.

In the bill as it has been amended, on page 6, occurs this provi-

sion under "Title II, general subsidy:"

SEC. 6. That from and after the 1st day of July, 1902, the Secretary of the Treasury is hereby authorized and directed to pay, subject to the provisions of this title, out of any money in the Treasury not otherwise appropriated, to the owner or owners of any vessel hereafter built and registered in the United States or now duly registered by a citizen or citizens of the United States, etc.

So, Mr. President, the benefits of this bill are confined to vessels hereafter built and vessels now duly registered. These foreign lines can not be hereafter built and they are not now duly registered or otherwise. Therefore by the terms of this bill they are absolutely barred out from all participation in the benefits of

this subsidy, and properly so.

But, Mr. President, I want now the attention of the Senators. What does it signify that Mr. Morgan and his associates have bought the Leyland Line, as we know they have, according to the official report before us, and what does it signify, if it be true. that they have also recently bought these other lines, as has been What is the significance of it? It has an impressive lesson for us. It has been referred to here in this Chamber in the course of this debate as though some great crime had been committed. Mr. President, I will not say a great crime, but I will say a great offense has been committed; but it has not been committed by the men who purchased these lines. It has been committed—and it is putting it not too strongly for me to say it—it has been committed by the Congress of the United States, and, in large part, here in this Chamber.

When did Mr. Morgan buy these lines? I am not here to defend him; it is not necessary; but I am here to defend this measure. He bought these lines in May, 1901, after the Congress had adjourned without taking action on the bill providing subsidies for the merchant marine and providing otherwise for its That bill failed of favorable consideration in the restoration. Senate, fell to the ground, and Congress adjourned; and when it fell to the ground the last hope fell to the ground with it of the men who wanted to invest capital in an American merchant marine to carry our products to the markets of the world; and when we had made it impossible, by failing to legislate, for them to safely invest capital in American ships to sail under the American flag, they of necessity looked elsewhere for the ships they needed. We have no right to complain of their action, for it was our inaction that drove them to it. They went and bought the Leyland Line, and perhaps since they have bought these other lines. I should not be at all surprised to hear the report confirmed. It

is only what we might expect.

Mr. President, suppose the Congress of the United States had refused to impose tariff duties on the importation into this country of steel rails, what would have been the consequence? We would have gone on building railroads, but we would have bought our steel rails in England manufactured by English labor, thus constituting a home market for the English farmer; we would have bought them there and we would have been driven to that; but the Congress, instead of refusing to protect that industry, protected it, and, as a result, our steel mills were started in this country, and steel rails were manufactured here by American workmen, who were fed by American farmers, and from our own mills our railroads supplied their wants. But as in that case we would have driven our railroads to purchase rails from Great Britain if we had not made a home supply possible, so is it that failing to make American ships possible we drive those needing them to buy them abroad.

It is the same question precisely, only occurring in a different form. We want ships: we have not got them. What is the reason? We do not lack capital. We have got more capital to be employed in that way, or in any other way that is profitable, than any other country on the face of the earth. We have the ablest and most capable business men to handle that capital. We all desire a merchant marine, not only because of the benefit it will be to us, but because of the pride we take in seeing our flag floating over the seas upon American vessels. We have not got the ships. What is the trouble? Our capitalists can not, because of the increased cost of construction and the increased cost of operation, safely invest in the building of ships and in their navi-

gation.

That is the whole of it, and the Congress of the United States, year after year for twenty years now having this matter almost constantly under consideration, has failed to come to the rescue of this great industry. As a result of it all, men who can no longer do without ships—men who would want to invest their capital in ships of American build and have the American flag float over them—are driven, in order that they may conserve the great business interests with which they are identified, to go abroad and spend their millions in making purchases of steamship lines from the British, instead of spending their millions in the shipyards of the United States. That is the whole of it. Who suffers, or, rather, who does not suffer?

Mr. President, I say that the only offense that has been committed has been committed by this body—I mean by the Congress of the United States—and that is an offense against every shipyard in this country, against the mechanics of this country, against the farmers of this country, against the whole people of this country, who are interested not only in a business point of view but in a patriotic sense in seeing our merchant marine restored.

I do not know what purchases Mr. Morgan has made beyond the Leyland Line, but I do know that I am not at all surprised to hear that he has made that purchase, and that he has probably made the other purchases which have been referred to. It is just what should have been expected. If we had not protected our industries, established and developed them here under a protective-tariff policy, we would not have had them here; they would have been across the water. And just so it is, that so long as you refuse to make it safe and profitable to invest capital in an Ameri-

can merchant marine, so long shall we not have one, and our capital will be invested, as it has been in this instance, in the purchase

of lines that belong to foreigners.

Mr. President, I am not going into the details of this measure. I want to continue to speak of it in the general, broad way in which I have been trying to speak of it. I have said that the reason these purchases of foreign lines have been made is that we have not done our duty to the merchant marine of this country, and I have said that the reason legislation is necessary is because we are at a disadvantage on account of the difference in the cost of construction and the difference in the cost of operation between this and other countries.

Well, now, when I say that, I am at once told by Senators on the other side that this, that, and the other man has made a statement to the contrary, and that is true. They have cited and put into the Record one statement after another—not a great many in the aggregate, but quite a number—to the effect that we can build ships in this country as cheaply as they can be built anywhere else, and that we can operate them as cheaply, and therefore there is no necessity for any subsidy. On the other hand, there are statements quite equal in number, quite equal in positiveness, to just the opposite effect. Let the statements offset the one the other. They are only opinions at best. But there are some statements of fact that show conclusively, Mr. President, the necessity for coming to the rescue of our merchant marine if we would restore it to anything like its former greatness, to anything like the proportions it should have.

What I have just been talking about is a most conclusive argu-Why have Mr. Morgan and his associates made these investments and expended millions in ships built abroad, to be navigated under the flags of other nations, subject to all the disadvantages in consequence? Why, if they want ships, would they not rather invest their money at home in the extension of our shipyards, in the employment of our mechanics, in the construction of an American merchant marine to be sailed under our own flag? Why, Mr. President, the fact that they would submit to the disadvantage of investing their capital under foreign flags, instead of under our own, is of itself, I say, conclusive evidence that there is a controlling reason for it, and the only reason for it that anyone has suggested is the fact that they can not invest their

capital safely in American ships.

Mr. TELLER. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.
Mr. TELLER. I want to ask the Senator if he means by his emphasis on the fact that they are flying another flag over these ships to have us understand that they can not fly the American flag over them if they see fit to do so?

They can not, as I understand it. Mr. FORAKER.

Mr. TELLER. I understand the contrary, and the Senator will find it so laid down in the regulations. They can not document the vessel or have it placed under American registry, but they may fly any flag they may see fit, and they can fly ours if they want to do so.

Mr. FORAKER. That may be true. I have not looked at the statute to know what its provisions are, but it never occurred to me that the American flag could be floated over any ship that was foreign built and not documented in America and admitted to American registry. If I am in error, I am glad to be corrected.

Mr. TELLER. If the Senater will look at the regulations, which he will find in the report of the Commissioner of Naviga-

tion, he will find what I have said to be the fact.

Mr. FORAKER. So let it be.

Mr. TELLER. There is nothing to prevent an American citizen from flying the American flag over any ship he owns no mat-

ter where it is documented.

Mr. HANNA. I should like to ask the Senator from Colorado a question. If a portion of the stock of such a corporation is owned by American citizens and the balance by foreigners, how would it be about the flag?

Mr. TELLER. I do not think it would make any difference. Mr. HANNA. It would take a majority of the stock to deter-

mine under what flag the ship should be sailed.

Mr. TELLER. The rule is that a corporation gets its character largely from the place where it is incorporated, but where a majority of the stock in a corporation is owned by American citizens we treat it as an American corporation.

Mr. HANNA. As to the question of the flag, it would take a

majority of the stock to control.

Mr. TELLER. I do not wish to interfere with the Senator from Ohio [Mr. FORAKER], who has the floor, but I shall later present some facts regarding this matter. If Mr. Morgan has bought the majority of that stock, as I understand he and other citizens of the United States have done, they can fly the American flag from those vessels, or the Belgium flag, or the English flag, or any other flag they see fit, but they can not document the vessel or register in this country.

Mr. HANNA. But if they have the American flag at their peak they will have to pay American wages, which are from 25 to 30 per cent more than the wages paid in other countries, though it

is not an American ship.

Mr. FORAKER. I do not know how it is as to the flag. That is a statutory provision as to which I had not the thoughtfulness to consult the statute. I supposed the flag went with the registry and that unless a ship was regularly documented as an American ship it could not carry the flag. But it is true, notwithstanding all that has been suggested by the Senator's interruption, that these foreign lines can not be documented and can not be registered as American ships and they can not, therefore, have the benefit of our navigation laws, and that is the point of importance—

Mr. SPOONER. The Supreme Court of the United States decided a great many years ago that a ship owned by a corporation not an American corporation was not a ship of the United States

within the meaning of the navigation laws.

Mr. FORAKER. Well, I was referring to this purchase as a fact which of itself is the strongest evidence that I can think of why these gentlemen could not successfully invest their money under existing conditions in American shipping.

Mr. TELLER. I do not desire to interrupt the Senator, but I call his attention to the regulations, which he will find on page 418 of the report of the Commissioner of Navigation, where the

statement is made unequivocally that an American citizen may fly the American flag upon a vessel if he sees fit. I assert, after some examination, that there is not any law anywhere which I can find against it, and if there is, I have overlooked it, and so has the Treasury Department.

Mr. FORAKER. I read what I understand the Senator from Colorado to call my attention to—regulation No. 347, on page 418

of the report of the Commissioner of Navigation:

3/7. Right to fly the flag.—The privilege of carrying the flag of the United States is under the regulation of Congress, and it may have been the intention of that body that it should be used only by regularly documented vessels—

That is what I supposed—

No such intention, however, is found in any statute. And as a citizen is not prohibited from purchasing and employing abroad a foreign ship, it is regarded as reasonable and proper that he should be permitted to fly the flag of his country as an indication of ownership and for the due protection of his property. The practice of carrying the flag by such vessels is now established. The right to do so will not be questioned, and it is probable that it would be respected by the courts.

I am glad to find something in the report of the Commissioner of Navigation that is cited with approbation on the other side in this debate. I am very glad, indeed, and I feel very much obliged to the Senator from Colorado for calling my attention to it. I was not aware of the regulation.

Mr. TELLER. I would cite something more, if it would not interrupt the Senator, that he may not have heard of, and shall do

so before the debate is concluded.

Mr. FORAKER. The Senator knows that I never complain of interruptions. I am quite glad to be interrupted, particularly

when I am in error about anything.

I did not suppose that vessels not documented and not under American registry had the right to fly the American flag; but the fact remains, and it is an important fact, that they have no right to register these ships, no right to invoke the protection of our navigation laws in their favor. But my contention is, they would not willingly do the thing they had done, and that, in view of the fact that they have done it, we have an argument that seems to me to be controlling, to the effect that they have invested capital there because it is not profitable, or at least not equally so, to invest it here.

Now, I want to call attention to some other facts. I do not want to call attention to anybody's opinion. One man can indulge in conjecture as well as another, but facts, when they are indisputable, speak for themselves and can not be contradicted.

I call attention to a letter, which has already been put in the RECORD in the progress of this debate, but which ought to go into the RECORD again, and which ought to be made familiar to everybody in this country who takes an interest in this subject. I refer to the letter of Mr. B. N. Baker, president of the Atlantic Transport Line. I want to read it, in order that it may appear in my remarks in the RECORD:

ATLANTIC TRANSPORT LINE, OFFICE OF THE PRESIDENT, Baltimore, October 17, 1901.

DEAR MR. CHAMBERLAIN: Referring to my letter of March 16, 1901, and replying to your request with regard to relative difference in cost of ships, our company at present have a contract for two ships with Messrs. Harland & Wolff, Limited, Belfast (one of which will be completed very early in the spring, and the other a little later, say during the summer), of exactly the

same size, dimensions, and all particulars as two ships we have contracted for

same size, dimensions, and all particulars as two sinps we have contracted for with the New York Shipbuilding Company, of Camden.

The cost of the English-built ship, as near as possible (we having just completed two of exactly the same size, dimensions, and speed), will be about £202,000 (\$1,419,120). The same identical ship built at the works of the New York Shipbuilding Company will cost us a little over £380,000 (\$1,846,800).

More than \$400,000 additional cost.

In addition to this, we are building two steamers with the New York Ship-In addition to this, we are building two steamers with the New York Shipbuilding Company of smaller dimensions, for which we have a contract, at £150,000 each (\$729,000). Also two ships of exactly the same dimensions with the Maryland Steel Company, Sparrows Point, for £150,000 each (\$729,000). We have two ships of identically the same detail, delivered to us in the last twelve months, built by Messrs. Harland & Wolff. Belfast, one of which cost us £110,000 (\$534,600) and the other £100,000 (\$486,000).

Yours, very truly,

B. N. BAKER, President.

EUGENE T. CHAMBERLAIN, Esq., Commissioner of Navigation, Washington, D. C.

Mr. President, that is nobody's opinion—that is nobody's conjecture. There is an actual fact. Here is the president of a great steamship company seeking to do the best he possibly can in the administration of his trust for his stockholders. He has ships built abroad and ships built in this country, of identically the same dimensions, the same plans, the same specifications through-What is the result? In the first case he gives there is a difference of more than \$400,000 in favor of the construction abroad, the cost there being that much less than the cost here in

In the other case, as against \$729,000 for a ship built in this country of identically the same dimensions and identically the same character in every respect as one built abroad, he paid but \$534,000. As to the other case, he paid \$729,000 in this country and he paid \$486,000 in Belfast. These figures need no comment.

It is argued that because we can send locomotives abroad and sell them in successful competition with locomotive builders abroad, that therefore we ought to construct ships as cheaply here as they are constructed abroad. That argument is not sound, because it overlooks the fact that locomotives are built in large numbers and to standard size. There is no difficulty therefore about their construction, and the cost of labor upon a locomotive can be cheapened on that account far beyond what you can cheapen the cost of labor on a ship which is not built according to a standard.

But I want to avoid opinion and speculation and rely on facts. Therefore, notwithstanding the criticisms that were made by the Senator from Arkansas of Mr. Griscom. I want to read now a statement made by him which I find to be reported by the Commissioner of Navigation. It is to the same effect. I find it at page 47 of the Commissioner's report. He says:

If we had built these two ships, the St. Louis and St. Paul, in Great Britain instead of the United States we could have procured them for \$1,100,000 less

money than we had to pay for them.

It was some time ago when these ships were built, and some time ago when he made that statement; as long ago as when he testified before the Committee on Commerce, two or three years ago perhaps, but the fact remains that whenever it was, whether four or five years ago or longer, when these ships were built they cost \$1,100,000 more for their construction in this country than they would have cost had they been constructed abroad. I know Mr. Griscom and know his statement is reliable. In addition to what he says, we have the fact undisputed and indisputable,

given by Mr. Baker, the president of the other company, that only last year he was compelled to pay at the rate of 25 or 30 per cent more for the construction of ships in this country than he could

have secured their construction for abroad.

So it seems to me it is pretty well established by such facts as these—and I might cite many others, but I do not want to detain the Senate unduly—not by somebody's opinion, not by somebody's argument, somebody's reasoning, but by facts of which men engaged in this business tell us, that it costs 25 to 30 per cent more to construct ships in this country, notwithstanding all our facilities, than it does to construct them abroad.

Now, what about the operation of the ships? I do not know where the Committee on Commerce got the data which they have embodied in their report, but they have given us some very instructive facts, which I have no doubt are absolutely reliable. At any rate these facts are given us by our committee, and we are under every proper obligation to accept them. They tell us, at page 21 of their report, about wages, for I do not intend to spend any more time on the question of the cost of construction. I come now to the question of the operation, the navigation of the ships. They say:

Based on an examination of the monthly pay rolls of 20 ocean steamers in foreign trade—American, British, German, and Norwegian, ranging from small cargo steamers to the highest types of trans-Atlantic mail steamers—the total monthly pay roll of 1.508 men of all ratings on American steamers is \$56,116; of 1.504 men on British steamers is \$39,202, and of 1.507 men on German and Scandinavian steamers is \$27,047. The average monthly pay is thus: American, \$37.21; British, \$26.07; German and Scandinavian, \$17.95.

Now, Mr. President, in the face of facts of this character, gathered from actual experience officially reported to us, it seems to me there is no room to argue about the cost relatively of navigating our ships under our flag. We have this result laid before us—why should we not accept it? It is the only explanation that has been given, that anybody has attempted to give, of why it is that we have not a merchant marine—that we are at a disadvantage in our competition with the merchant marines of other countries.

Mr. VEST. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. FORAKER. With pleasure.

Mr. VEST. From the table the Senator has just read, which has been emphasized by the statement of the chairman of the Committee on Commerce, if foreign-built ships were given to the people of the United States they could not run them on account of the difference in wages on foreign ships and our own ships. Will he be kind enough to tell us why it is that England, paying the largest wages upon the ocean, except those of the United States, to-day commands 53 per cent of the carrying trade of the world, and that Germany, France, and Norway, paying much less wages, as shown by the very table which the Senator has quoted, are unable even to approximate the supremacy of Great Britain?

Mr. FORAKER. It is not necessary for the purposes of this debate or in the consideration of this measure to explain why there should be a difference in the wages paid by Great Britain and Norway and other countries, and that there should yet be success, notwithstanding higher wages, in the development of the British merchant marine. I can say this, however. We all know

from reason, as a matter of fact, that there can not be successful competition where there are disadvantages for the one party to labor under unless such disadvantages be overcome by a countervailing advantage of some kind or another. I have not studied this question as to relative conditions in foreign countries. I do not know why, therefore, if it be true, as the Senator has stated, that France and Norway and other countries have an advantage over Great Britain in the matter of wages, Great Britain can yet successfully compete with them in her merchant marine. But if there were any propriety in it, I could suggest a great many reasons that occur to me on the spur of the moment why Great Britain, mistress of the sea for generations, with her great merchant marine, retains her advantage in spite of the disadvantages to which the Senator from Missouri refers.

I am speaking of the practical situation here in America. Why is it that Senators are unwilling to receive, as the explanation for the absence of an American marine, the explanation which has been given by the committee? Why is it that they are unwilling to accept for that explanation the facts for which indisputable figures are offered, that there is a difference in the cost of labor in this country, whether in the construction of the ship or in the

navigation of the ship?

Now, that brings me to another feature of this bill. It has been said in this debate that masters of vessels have a right in every port to employ their crew; that they can take Chinese or Japanese; that they can take anybody. In a sense, that is true; but one purpose of this bill looks to the national defense, to the establishment of auxiliary cruisers, and in that behalf to the making of a nursery for seamen, and therefore it is provided, not only that the ships which carry the mails shall be suitable to be converted into cruisers, but that one-fourth of the crew for the first two years, I believe it is, shall be Americans, 33½ per cent Americans after two years, for the next three years and after that 50

per cent of the crew shall be Americans. You can not have two rates of wages for men who work alongside of each other. If you are going to have 25 per cent of your crew Americans, you will have to pay American wages to that portion of your crew, and if you pay American wages to 25 per cent of your crew you will have to pay American wages to the whole of your crew; and so from the beginning in considering this matter you have to depend upon it that when you come to man your vessels after they have been put in commission, when you come to select your crew in this way, although you may be allowed to employ three-fourths of your crew from other countries who would be willing to accept lower wages under other circumstances, for the reason I have indicated, you will have to pay them all American wages. There is not, therefore, any advantage in the matter of wages, even if it be true that you can ship the crew in any port.

Now, Mr. President, I do not care to go into the detail of this bill. That I leave to the judgment of the committee. But I wish nevertheless to say a word or two as to some of the provisions. The committee have seen fit to amend the law of 1891 in some particulars. They have been criticised for doing it. I think they

are to be commended for doing it.

The first criticism is that they "direct" the Postmaster-General instead of simply empowering him to make these contracts. We

do not want a Postmaster-General exercising a discretion in this matter. We want our mail carried on lines such as this bill undertakes to provide for, and we want to have the Postmaster-General directed to do it, so that he may not consider it an optional matter with him as one Postmaster-General did, and not proceed under the bill to take the action which it is desired be

shall take.

Another provision of the law which is to be amended is that which provides for the payment of the subsidy at so much per mile. The amendment is that it shall be paid according to ton-The purpose of that is explained by the committee in their report. It was explained by the chairman who presented the bill to the Senate. It is a good purpose. The purpose is to encourage a larger tonnage, the building of larger vessels. If you pay only so much per mile, there is no inducement to increase the tonnage. If you pay by the ton, then everyone who takes a contract of this character is interested in having the larger tonnage which modern wants require.

Mr. BACON. Will the Senator from Ohio permit me?

Mr. FORAKER. Certainly.

Mr. BACON. The Senator speaks of the improvement of the present bill in the fact that the discretion is taken, as alleged by him. from the Postmaster-General. I wish to call his attention to the fact that the discretion is now almost entirely lodged with the Postmaster-General, and to ask him whether, in view of his commendation of the taking away of that discretion from the Postmaster-General, the pending bill is not so defective in this regard as to call from him or from some other a proper amendment in this respect. I will read it, with his permission.
Mr. FORAKER. Is it as to routes?

Mr. BACON. Yes, sir. I will read it, if the Senator will pardon me for a moment:

The Postmaster-General is hereby authorized and directed to enter into contracts, for a term not less than five nor more than fifteen years in duration, with American citizens for the carrying of mails on American steamships between ports of the United States and such ports in foreign countries, the Dominion of Canada excepted, as in his judgment, having regard to the national defense, will best subserve and promote the postal, commercial, and maritime interests of the United States.

Now, the Senator will observe that the bill gives to the Postmaster-General the absolute discretion as to what routes shall be selected upon which the vessels shall be run with which these contracts shall be made. I have thought and still think that this bill is very gravely defective in that regard, and that we ought to do as I understand the British Government does, and if the bill should become a law the routes should be specified; and not only should the routes be specified, but the character and the magnitude of the service should be specified. This is a discretion which ought not to be lodged in any single man, but it should be prescribed by Congress.

Mr. FORAKER. The point made by the Senator from Georgia had not escaped me. I would have been better satisfied with this bill, I will frankly state, if it had specified the routes and established them. Then we would have known precisely what was going to be established. What we want is the establishment of the lines recommended in the report. I wish that part of the report were a part of the bill, but I was not disposed to criticise the committee, for I can understand very well how they might conclude, thinking the matter over, that that was a matter of detail which they could safely intrust to the Postmaster-General.

He is not an indefinite somebody. He is a distinguished and capable officer of the Government, charged with a great responsibility, and in all my time, as far back as I can recollect, we have never had a Postmaster-General to whom it would not have been safe to intrust that discretion. I do not know what the Postmaster-General will do in regard to it, but the Senator can not have any debate with me over that suggestion. I, after thinking it over, concluded that the committee had taken that view of it. I can understand well why they should take it. If they had put in the bill a provision for certain specific lines, Senators would have taken exception, possibly, if not to all, to some of them. It might have been said, "better leave that to the official who will be charged with the duty of executing the law, who will take time to look into the matter and act upon his judgment and responsibility."

Mr. BACON. Will the Senator pardon me for a moment?

Mr. FORAKER. Certainly.

Mr. BACON. In order that I may not be misunderstood by acquiescing without any reply to what the Senator says in reference to the capacity of the present Postmaster-General and other Postmasters-General. I do not mean in any wise to reflect upon the capacity and integrity of either the present or any other Postmaster-General, but I do mean to say most emphatically that not only has there never been a Postmaster-General since the foundation of the Government who ought to be intrusted with such power as this bill gives, but I do not think the man has ever existed since the foundation of the Government who ought to have been given such large discretion as the bill gives to the Postmaster-General in empowering him to decide for himself as to the routes to which he will give these contracts, giving him the power to make contracts from five to fifteen years in duration. It is no reflection upon any Postmaster-General, either present or past, to say that no such power ought to be given either to him or to any other man who ever lived in this country or ever will live.

Mr. FORAKER. I did not take such an extreme view of the magnitude of the power intrusted to the Postmaster-General as the Senator from Georgia has expressed. I know it is an important power, but it seems to me there are certain limitations that any Postmaster-General would be bound to respect. Public sentiment has called for the establishment of certain routes, and public sentiment is generally a safe control in such matters.

Mr. HANNA. May I offer a suggestion?

Mr. FORAKER. Certainly.

Mr. HANNA. It must be remembered that, looking to the increase of our merchant marine, there is a third party who has to be taken into consideration in the establishment of these routes, and that is the party who proposes to build the steamers and operate them. The subsidy paid by the Government will not alone be an inducement for capital to be invested in these postal contracts, and that party must have some discretion as to whether he will operate a postal line from one place to another. The Postmaster-General, being a party to negotiate the contract, must find parties willing to make and carry out such contracts, and there must be some discretion left to the Postmaster-General.

Mr. BACON. If the senior Senator from Ohio will not consider it an intrusion, I desire to make a suggestion in response to the suggestion of the junior Senator from Ohio, and that is that that emphasizes, to my mind, this grave defect in the pending bill. It is important, if this scheme is to be carried out, that there should be lines not simply upon the most profitable routes, but that there should be lines upon routes to be developed and heretofore not developed, possibly from the fact that they are not the most profitable. Therefore it seems to me important that the routes should be specified and that it be not left entirely within the control of the Postmaster-General and a third party designated by the Senator from Ohio to limit these routes to those which in themselves may be the most profitable.

Mr. HANNA. Let me ask the Senator if he would be willing to increase the subsidy to an amount which would cover the absolute cost of operating a line, irrespective of the interest of

the third party?

Mr. BACON. The Senator asks me if I would be willing to increase the subsidy. I speak with the permission of the senior Senator from Ohio?

Mr. FORAKER. Certainly,

Mr. BACON. He must not understand me as approving of the giving of any subsidy whatever, but I do say that if the bill is to be passed, it ought to be made as proper for the purpose designed as possible, and it ought not to be left simply to the question of what may be most desirable to the parties who may enter into the contracts.

Mr. HANNA. Those of us who are interested in the passage of

the bill want to make it effective at the same time.

Mr. BACON. I do not recollect to which particular provisions of the report the senior Senator from Ohio referred, but if those provisions would make the bill more perfect, it seems to me the friends of the bill ought to incorporate them in the bill. It is not

for those who are opposed to 1t.

Mr. FORAKER. What I referred to as to specified routes is what is said in the report as to that. It is in contemplation to establish a route from San Francisco by way of Honolulu to Japan and China and, I believe, on to the Philippines, and then to establish another route from Puget Sound to Japan and China direct.

Mr. BACON. What page?

Mr. FORAKER. Pages 10 and 11, commencing at the bottom of page 10. And still another route, an alternating route, I believe, from San Francisco by way of Pango-Pango to Australia. Those are all, it seems to me, desirable routes. Whether or not the Postmaster-General will be able to get somebody to contract with him under the subsidy provided for the carrying of the mails over those routes I do not know. That remains to be seen. I can understand and I appreciate fully the force of all the Senator says, but at the same time I understand and appreciate what must have been in the mind of the committee when they said that was a matter of detail which they must leave to the Postmaster-General.

Now, there is only one other thought I wish to add, and I intend with that to conclude. I have called attention to the change in the manner of paying the subsidy. We are to pay the subsidy, under this bill, by the gross ton instead of by the mile, as under

existing law, and that, I said, has among other purposes that of

increasing tonnage.

They are to pay more subsidy under this bill than they do under existing law, and the reason of that is that our experience has demonstrated that the subsidy provided by the existing postal subsidy law of 1891 is insufficient for the purposes to be subserved. What has been our experience? That is the best test as to whether or not the subsidy is sufficient. We have established a trans-Atlantic line.

We entered into a contract with the Pacific Mail Company for a trans-Pacific line. After the contract had been performed for a year and a part of another year it was abandoned simply because there was so much loss attending it, they having all the subsidy the law would allow, that they could not afford to go along any further with it, and under the provision of the contract made to

meet such an emergency the contract was canceled.

We have had precisely the same experience as to a contract made with the New York and Brazil Line of ships establishing a route to South America. After, I think, only three trips the company that took the contract, under the provision allowing it, abandoned it, simply because they could not successfully compete with the ships subsidized for the carrying of its mails by Great Britain.

So, as the result of the law of 1891, in existence now for more than ten years, we have this one trans-Atlantic line, the International Navigation Company, with four ships—a weekly service. I do not know what the fact is; I do not know that anybody here knows, but I have been told that that company has made no money whatever, and does not want a renewal of the contract on the terms upon which it holds the present contract. I do not know what the fact is, but it is said that it has been a loss continuously, and there is, therefore, a necessity, if we are to continue that line, and certainly a commanding necessity if we are to establish any new mail routes across the Pacific and to South America, where we most need them, that the subsidy shall be increased, and therefore it is that the subsidy provided here is an

increase of the subsidy authorized by the law of 1891.

Mr. President, in all this matter there is no mystery whatever. When heretofore we have been legislating in pursuance of our protective tariff policy we have frankly and openly discussed the rates which in our judgment it was necessary to impose on goods imported coming into competition with home products, and the rates imposed have always been governed by the disadvantage which we were seeking to overcome. Just so it is here. We want to rehabilitate this industry. We want to have again a merchant marine of which every American will be proud. We can not have it to-day because American labor will not accept, and nobody ought to want American labor to accept, the wages that would enable us to successfully compete. We have established in this country the highest standard of wages known to the world, and we have done so under the policy we have been pursuing. intend to maintain that standard. We do not want to lower it; but if we maintain that standard and at the same time have this industry, we must overcome the disadvantage to which we are subjected on account of cheaper wages elsewhere.

This is a bill the purpose of which is to overcome that disadvantage. We propose to pay out of the Treasury of the United



## SPEECH

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## HON. J. B. FORAKER.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. 9206) to make oleomargarine and other imitation dairy products subject to the laws of the State or Territory or the District of Columbia into which they are transported, and to change the tax on oleomargarine, and to amend an act entitled "An act defining butter, also imposing a tax wave and condition they are transported in a contraction of the contraction of th upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886—

Mr. FORAKER said:

Mr. President: I would not take the floor as against the Senator from Wisconsin if it were not entirely agreeable to him-

Mr. SPOONER. I am not holding the floor. Mr. FORAKER. And if it were not for the fact that I want

to speak only briefly

I have given notice that I shall propose two amendments to this bill; and I wanted at this time, for fear I might not have time enough after the debate has passed under the five-minute rule, to explain why I have offered these amendments, the object of them. and the necessity for their adoption to make this bill sat-

isfactory to myself.

I desire to say, however, before I come to speak of the amendments in the way I have indicated, that I have learned a great deal about oleomargarine since this debate commenced. As other Senators have announced in the progress of the debate, I was originally impressed with the idea that oleomargarine was an unwholesome product; that it was not an acceptable article of food; and, never having had occasion until now to give special attention to the subject, that impression has very largely remained with me. During the progress of this debate, however, I have learned from the investigation that has been made by the committee. the report of which is before us and which I have read, as well as from other sources, that that impression is not well founded. It must be conceded, and it is conceded by all, I believe, or at least practically by all who have participated in this debate, that oleomargarine is a wholesome article of food; that it is a good substitute for butter, and that it is now widely used in all sections of our country. This being the case, I think two provisions in this bill should be changed, or at least modified.

Mr. SIMMONS. May I interrupt the Senator from Ohio? The PRESIDING OFFICER. Does the Senator from Ohio

yield to the Senator from North Carolina?

Mr. FORAKER. Certainly.
Mr. SIMMONS. I should like to ask the Senator from Ohio if. at the time of the passage of the first oleomargarine act in 1886, the sole and only argument used in favor of the enactment of that law was not that oleomargarine was an unhealthy product and injurious to the human system?

Mr. FORAKER. I am not sufficiently familiar with the discussion in connection with that legislation to be able to answer

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without qualification the question which the Senator from North Carolina has put to me. It is my impression, however, that he is

substantially correct in making that statement.

Mr. GALLINGER. If the Senator will permit me, it was my privilege to participate in that debate and cast a vote on that question in another body in 1886. I will say to the Senator from Ohio that that was largely the contention, and to a very considerable extent it was conceded, I think, that the article known as oleomargarine was differently made at that time from what it is at the present time.

Mr. FORAKER. I am very much obliged to the Senator from New Hampshire for giving me the benefit of that information. What he has said, however, is in accordance with the impression I already had about it, that the article was at that time legislated against for the reason suggested by the Senator from North Carolina, in a very large part, at least. But, however that may

be-

Mr. HARRIS. If the Senator will permit me, I will suggest that owing to the restrictions and regulations required by that very law the materials used in the manufacture of oleomargarine have been very much brought up and benefited and improved since that time.

Mr. GALLINGER. That is right.

Mr. FORAKER. I have no doubt that also is true, for certainly it is the fact that oleomargarine, as it is now manufactured and sold in the market is a widely different and much better article of food than it was supposed to be at that time.

Mr. COCKRELL. And just as good as butter so far as purity

is concerned.

Mr. FORAKER. The Senator from Missouri says just as good as butter so far as purity is concerned. I am inclined to agree with him about that, and I am inclined to agree with him, not alone because of what has been testified to before the committee, but because of what has been put before us officially. I have before me the table that is furnished by the Director of the Census in Bulletin No. 138, in which he gives us the formulas according to which the different grades of oleomargarine—three in all that he discusses—are manufactured and put upon the market. These formulas certainly sustain all that the Senator from Missouri has stated.

The objection that I have, therefore, to what is here sought to be legislated against is what has been termed the putting of this article upon the market not as oleomargarine, but so much in the similitude of butter as to practice an imposition upon those who want to buy butter. I do not know to what extent that is true. I have no doubt whatever but that it is true to some extent: and I have not any doubt whatever but that to whatever extent it

may be true, we ought to correct it if we possibly can.

I ought to say further, before speaking of these amendments, having stated that much as to the general purpose of the bill, that I have not taken the floor for the purpose of discussing the legal questions involved in this legislation or that it gives rise to. There is abundant excuse for that in the fact that the Senator from Wisconsin [Mr. Spooner] on the one side, and the Senator from Texas [Mr. Bailey] on the other—not to mention the other Senators who have so ably discussed the legal aspects of the case—have completely covered every legal proposition that has been

raised by this proposed legislation. I do not think anyhow, Mr. President, that there is any serious difference of opinion between the lawyers of this Chamber, certainly not judging from that which they have spoken in our presence, as to what is the correct legal view as to each of the propositions involved. But, as I have said, as to that I do not propose to speak. I deem that unnecessary.

What I want to do, desiring to vote for this bill if I can, is to correct its provisions, first, the one found at the bottom of page 2. in the last clause of section 2 of the bill. It has been contended here that under this provision anyone is at liberty to buy oleomargarine, and, after having bought it in its natural condition, color it to suit his own fancy, provided he uses it only in his family, and only allows it to be used in connection with his family by such guests as he may have without compensation in his family. My objection to that has already been stated by others. I think they have correctly pointed out that the effect of that provision will be to subject every family table in this country to a system of espionage, to a visitation from a Government inspector to ascertain, in the first place, whether or not oleomargarine is used; in the second place, whether or not, if used, it is colored to any shade of yellow; and, in the third place, if they find that oleomargarine so colored is being used in that family, whether or not there is any guest there: and, if there be a guest there, whether or not he is a guest" without compensation" or a boarder paying for his board.

I think we ought to so amend the bill as to avoid that very disagreeable result of such legislation. I do not think anybody here wants to have, as a result of this measure, every family table in the land subjected to the visitation of a Government representative or put under the scrutiny of officials of the Government. Therefore I have given notice that I shall move, when the proper time comes for the consideration of amendments, to strike out from line 24, on page 2, the words "and guests thereof" and substitute in lieu thereof the word "table;" so that the clause will read in such a way as to allow a man who has purchased oleomargarine to put it on his family table and have it used there without regard to whether he happens to have a boarder or not. and without liability in any event to inspection and examination by a Government official. I retain the word "family," so that the clause may not be taken advantage of by hotel keepers or by cafés or others where there is a public house or where the table is a place for the public entertainment of guests. I trust that that amendment will be accepted.

The other amendment which I propose to offer is to strike out the words "ingredient or," found at the end of line 25 on page 2, and to strike out the same words where they occur on page 3.

The language that I wish to amend is the following:

And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family and guests thereof without compensation, who shall add to or mix with such oleomargarine any ingredient or coloration that causes it to look like butter of any shade of yellow shall also be held to be a manufacturer of oleomargarine within the meaning of said act, and subject to the provisions thereof.

By striking out the words "ingredient or" and inserting the word "artificial," as I should have stated that my amendment provides, the language would read as follows:

And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family and guests thereof without compensation, who shall add to or mix with such oleomargarine any arti3 1 6

ficial coloration that causes it to look like butter of any shade of yellow shall also be held to be a manufacturer of oleomargarine within the meaning of said act, and subject to the provisions thereof.

The necessity for that is in this: From the bulletin furnished us by the Director of the Census, to which I referred a moment ago, it is shown that in each of the formulas according to which oleomargarine is made there are ingredients used that must of necessity give to it some slight shade of yellow, and I may remark in this connection that in all the cases which have gone to the Supreme Court of the United States the testimony reviewed, or the testimony that was offered and rejected, has been testimony showing, according to the finding of the Supreme Court of the United States, that the natural color of oleomargarine shows some slight shade of yellow. That has been shown, I believe, in every one of the decisions. It must of necessity occur if oleomargarine be made according to these formulas. I will not take the time to read from all of them, but only from the last one:

Formula 3.—High grade.

| Oleo oil    | ] | Pot | inds. |
|-------------|---|-----|-------|
| Neutral oil |   |     | 120   |
| Butter      |   |     | 05    |
| Sait        |   |     | 20)   |
| Color       |   |     | 1 2   |
| Total       |   |     | 3571  |
|             |   |     | 10013 |

In other words, 95 pounds out of a total of 357½ pounds of the

product is butter itself.

According to the other formulas no butter is used, but cream and milk are used in one and milk in the other, and other ingredients which of necessity would give some slight shade of yellow. That being the case, for us to provide that no ingredient shall be used that will lend any shade of yellow whatever to the color of oleomargarine would be for us to make it impossible for oleomargarine to be made according to any acceptable or known formula now in use, and certainly would make it impossible for it to be manufactured in accordance with the most acceptable formula, that numbered 3, as given in this bulletin by the Director of the Census.

Now, unless we intend absolutely to prohibit the manufacture of oleomargarine we ought not so to provide in our bill as to bring about that result. I understand it is not claimed that the purpose of the bill is to prohibit. If that were the claim, many of us could not support it at all. But it is only to impose a tax on the doing of that thing which may lead to fraud, imposition, and deception. If that be true, if our purpose is to allow it to be made according to these acceptable formulas and sold according to its merit, then we ought not to prohibit the putting in of ingredients which are absolutely necessary to make an acceptable and wholesome product.

For that reason I shall move to amend, as I have already indicated, by striking out the words "ingredient or" and inserting the word "artificial." so that the only thing prohibited by the bill with respect to the matter of color will be the putting into oleomargarine of any artificial coloration. That, I think, ought to be prohibited. I think the manufacturers of the product ought to be allowed to use the other ingredients just as they are

using them.

What answer there may be to this I do not know, but from what has been said informally I apprehend it will be urged that some oil will be found that has color in it which would impart more yellow than is now imparted by the ingredients to which I have referred. I do not know whether that is true or not, but whether it is true or not I think we ought to deal with this subject according to the nature of the product as it is disclosed to us by the testimony taken before the committee and by the formulas that have been submitted to us officially as those in accordance with which the product about which we are legislating is manufactured and put upon the market. When we deal with what we have and are acquainted with, we know what we are legislating about.

Mr. COCKRELL. What was the proportion of butter?

Mr. FORAKER. Ninety-five pounds out of a total of 357½ pounds—more that 25 per cent.

Mr. PROCTOR. Will the Senator allow me?

Mr. FORAKER. Certainly.

Mr. PROCTOR. I think that is added as a substitute for cream or milk. I think actually butter is not used to that extent, but the ingredients that make butter are used. It is correct in that

respect.

Mr. FORAKER. I am very much obliged to the Senator from Vermont for interrupting me to make the remark he did. He doubtless overlooked the fact that I made the statement that there were three formulas given. I read only the third one, which provided for the use of butter, remarking that butter was not used in the other formulas, but that cream and milk were used in the second and milk only used in the first. I did not read all of them. I did not want to take up so much time, because I begged the indulgence of the Senator from Wisconsin that I might occupy a few moments, and I want to hurry through.

Mr. SPOONER. I want to say to the Senator from Ohio that I

do not understand he is speaking by my courtesy.

Mr. FORAKER. I think, perhaps, it is due to all that these formulas, now that so much has been said about them, should be put in the Record in their entirety, and I will read them in order that they may be.

Formula No. 1 is known as the cheap grade. It consists of-

| Po              | ounds.    |
|-----------------|-----------|
| Oleo oil        | 495       |
| Neutral lard    | 265       |
| Cotton-seed oil | 315       |
| Mill:           | 250       |
| Salt            | 120       |
| Color           | 14        |
|                 |           |
|                 | 4 4 5 7 1 |

Out of the total of 1,451½ pounds the Senator will observe that there are 255 pounds of milk. The Senator from New Jersey [Mr. Kean] suggests that it does not state whether the milk was skimmed or not. I think, it being for the cheap grade, we might safely assume that it had been skimmed. It does not say anything about cream.

Formula No. 2 is denominated "medium high grade," and I desire to call the Senator's attention to this particularly, for I think there is more cream and milk in this formula than would

be an offset to the butter in the other.

|              |  |  | Pound    |  |  |
|--------------|--|--|----------|--|--|
|              |  |  |          |  |  |
| Nentral lard |  |  | <br>_ 50 |  |  |
| ream         |  |  | <br>. 28 |  |  |
| Milk         |  |  | <br>- 28 |  |  |
| alt          |  |  | 1:       |  |  |
|              |  |  |          |  |  |
|              |  |  | <br>     |  |  |
| Total        |  |  | <br>7 30 |  |  |

Five hundred and sixty pounds out of the 1,4961 were milk and cream. So it is, as I said a while ago, that to anyone who reads these formulas it must be manifest that necessarily there must be some flavor of butter and some color of yellow. You can not escape it; and if every shade of yellow is to be inhibited and is to make the person producing it a manufacturer within the meaning of this statute and subject his product to a tax of 10 cents a pound, it simply wipes out, without any possibility of escape, the whole manufacture. I do not think anybody wants to do that. I do not. I think it is a wholesome product. I know it is largely used in our State. I know it is kept in most of our groceries. I know it is kept and sold as oleomargarine or butterine, under the various names given to the product, and I know that in most instances it is properly labeled. I know people buy it because they want that product, and use it because, the price being considered, they prefer it to butter. But with these amendments, for the reasons already given, I shall support the measure.

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# THE CHINESE-EXCLUSION BILL.

## SPEECH

OF

# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES,

APRIL 14, 1902.

WASHINGTON. 1902,



## SPEECH

OF

## HON. J. B. FORAKER.

The Senate, as in Committee of the Whole, having under consideration the bill (S. 2960) to prohibit the coming into and to regulate the residence within the United States, its Territories, and all possessions and all territory under its jurisdiction, and the District of Columbia, of Chinese persons and persons of Chinese descent—

#### Mr. FORAKER said:

Mr. President: On Saturday last the Senator from Oregon [Mr. Mitchell] took occasion to speak of the necessity we are under in this body of acting by committees, primarily at least, in the investigation of all important questions; and he spoke of the respect that we are all under obligation to pay to our committees, their action, and their reports. He spoke with the disposition, as it seemed to me, to criticise all who are not able to fully agree with and support the action of the committee in this instance.

I want to say at the outset, Mr. President, that I recognize the propriety of all that the Senator has said, except only that part which is in the nature of criticism. It is true that we must act by committees, and it is true in this instance that we have a committee of able Senators, conscientious men, who have approached the consideration of this question, I have no doubt, conscientiously, and their report shows that they have labored zealously to arrive at what, in their judgment, is the legislation that should be enacted on this subject. I am always loath to differ from a committee, and especially such a committee; and yet, Mr. President, while loath to differ from a committee, there will come times when a Senator is unable to agree throughout, at least, with a committee. I am in that situation now.

I have no difference of opinion with the committee as to some important parts of this proposed legislation, but I have a very decided difference of opinion as to some of the provisions of the bill. My purpose here is not to differ unnecessarily with a committee—certainly not to obstruct the work of a committee, certainly not to criticise unnecessarily the work of a committee—but only to do my own duty according to my own conscientious judgment with respect to so important a subject after I have on my own account, as it is the duty of every Senator to do, carefully inves-

tigated it and reached a conclusion.

It is in that spirit, with a most profound respect for the committee, and with extreme regret that I cannot agree with the committee in every respect, that I want to express my differences of opinion so far as this measure gives rise to differences of opinion, and to give the reasons why I can not agree with the committee throughout.

At the outset, Mr. President, let me say, and say with particularity; and say, not only for myself, but I feel I can say it for every member of this body, that no one who has spoken in criti-

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cism of any part of this measure is opposed to the general proposition that Chinese laborers, whether skilled or unskilled, should be excluded. I think every member of this body agrees to that proposition. We have a right to agree to that proposition if we approve that policy. That has become an established policy, the wisdom of which no one now, so far as I have heard any expression, questions. It is not only a wise policy that the Chinese laborer should be excluded and efficiently prohibited from coming to this country, but it is a policy which we have a right to adopt and enforce by appropriate legislation under the treaty stipulations we have with China.

Therefore, Mr. President, I do not propose to discuss that question. It is not necessary that it should be discussed. I refer to it with particularity only because there are those here who, speaking on this subject in this debate, have taken occasion to say that which looks as if they were trying to put those of us who have seen fit to criticise this measure in the attitude of favoring the

coming into this country of Chinese laborers.

While I do not propose to discuss the general proposition that we have a right to exclude laborers under our treaty, and that it is a wise policy that we should so exclude, neither do I intend to discuss any of the provisions of this bill in that behalf to determine whether they are drastic or otherwise. I might differ from the committee as to the necessity of some of those provisions; but that is a matter that is nonessential, if I may, without being misunderstood, use that term. The committee having examined into that matter, the provisions which they have seen fit to report in favor of in that regard I am disposed to accept.

My objection to this bill, therefore, is not on account of its prohibition of Chinese laborers coming into this country, nor of any provisions contained in this bill for giving effect to that policy of prohibition of Chinese laborers. My objection to it is that in its other provisions—the provisions having reference to what has been termed here the exempted classes—it is, first, in violation of our treaty obligations, and, in the second place, irrespective of our treaty obligations it is unwise and calculated to do serious injury to the best interests of this country, and to nobody in this country so much as to the wage-workers of this country.

Some Senators in discussing this bill have apparently taken it upon themselves to assume and to speak as though they were the special representatives of the laboring men of this country. Mr. President, if they are, in my judgment they are most mis-takenly undertaking to advance the interests of the laboring man. The interests of the laboring man do not lie in the direction of improper treatment of the great Chinese people, and certainly not

in a violation of our treaty obligations.

The provisions of this bill of course are such, and intended to be such, as to keep out Chinese laborers. In my opinion the provisions of this bill as to the so-called exempted classes, those who are not laborers, are designed in practical effect to keep out everybody else who is a Chinaman, but not a laborer. In other words, Mr. President, it is not stating it any too strongly to say that the difference would not be material in practical results if we were to strike out all after the enacting clause and make this bill read as follows:

That from and after the passage of this act no Chinaman shall be allowed to come into the United States.

That is what is the effect of it. By that I mean to say that the definitions of the terms "teachers," "students," "merchants," and "travelers" are such, and the requirements with which they must comply in order to get into this country under this law are such, as to practically make it impossible for any of them to come into this country. "Oh," it is said, "we have recognized their right to come; we have provided that they may come." Yes, but with a provision that makes it impossible for any of them to want to come or desire to come or to be likely to come. That is what I

shall undertake to point out.

I say at the beginning that it is just as futile to say that we have provided here for Chinese teachers, students, merchants, and travelers to come into the United States, attaching the provisions you have attached, as it would be to say you had provided for them to come in if, instead of the requirements you have here, you were to say that every teacher, student, merchant, and traveler may come into the United States of his own free will and accord whenever he wishes to do so, provided he can show, like the Indian in the Pocahontas picture in the rotunda, that he has six toes on his right foot and only four toes on his left. It would not

be a bit more ridiculous.

Now, Mr. President, what is it we have a right to do in legislating on this subject in view of our treaty stipulations? Of course, if we want to violate our treaty obligations we can do so. The Congress of the United States can abrogate a treaty by refusing to comply with its provisions and requirements; but I take it that no Senator wants to violate any provision of our treaty. Certainly Senators have been asserting that they did not want to violate any treaty, for on every occasion, and indeed when there was apparently no occasion for it, they have been particular to emphatically assert that this bill is but a codification or compilation of the laws already in force, and I have heard it repeatedly asserted here that there is not a provision in the bill which is not warranted by our treaties and consistent with our treaty obligations and the rights of Chinamen under them.

Now, let us see what our treaty rights, stipulations, and obligations are. I have taken the trouble, Mr. President, recognizing the importance of this subject—for it is important not only as involving our good name as a great people, but it is important also as involving in a great way the prosperity of this country, especially the prosperity of the men who work in the factories, in the mills, in the foundries, and in the shops of this country—I have taken occasion, in view of that, to look carefully at the entire record. I need not repeat it all. At this stage of the debate Senators are familiar in a general way with our treaty engagements, but I may briefly recapitulate them in order that I

may reach by proper approaches what I want to say.

Our first treaty, as all know, was a treaty of peace, amity, and commerce with the Chinese nation, entered into in 1844. That treaty continued until 1858, when the treaty now in force was negotiated, ratified, and put into operation. I do not mean that it is in force just as it was then adopted, but I mean that that is the basis of all the treaty provisions now in force and effect between China and the United States.

The treaty of 1858 was substituted for the treaty of 1844, except possibly as to some minor provisions. The treaty of 1858 is very long and comprehensive and covers generally the subjects that

could be treated of in such an instrument. I do not wish to call attention to any of its provisions except only one article. I refer to Article XXV. I do not call attention to the rest of the treaty because nothing is in the treaty except only in Article XXV that is pertinent to this discussion; that is to say, in this treaty the subject of immigration was not dealt with, neither was the subject of classes dealt with in any manner, but this provision is here. I have not heard anybody call attention to it, and I do so because it is in force and effect this very minute and has been in force and effect from the moment when the treaty of 1858 was adopted. But I will show you how it bears presently on the question that we are compelled here to consider.

Article XXV of the treaty of 1858 reads:

It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China, without distinction of persons, to teach any of the languages of the Empire, and to assist in literary

See how broad it is—

It shall be lawful for the officers or citizens of the United States to employ scholars and people of any part of China, without distinction of persons, to teach any of the languages of the Empire, and to assist in literary labors.

This was a treaty negotiated at the solicitation of the United States, and that is a provision in behalf of the United States. That is not all. The clause continues:

And the persons so employed shall not for that cause be subject to any injury on the part either of the Government or of individuals; and it shall in like manner be lawful for citizens of the United States to purchase all man-

Mr. President, that provision of the treaty of 1858 has never been under consideration by the treaty-making representatives of the two Governments since the moment when it was adopted; it stands to-day as the supreme law of this land. Any citizen of the United States has a right by that treaty, any person in China has a right, if a person in the United States sees fit to exercise his right, to accept employment as a scholar or as a literary man, to assist in any kind of literary labor in the United States and to come to the United States for that purpose. Let us bear that in mind.

Mr. LODGE. Will the Senator allow me to ask him a question?

Mr. FORAKER. Certainly.

Mr. LODGE. Does that clause provide that this employment

shall be in the United States?

It does not in express words say that the per-Mr. FORAKER. son so employed shall come to the United States, but, Mr. President, what avail is it to me here in the United States to have a right to employ a Chinese scholar or literary man to assist me in literary labor or to teach the Chinese language, unless I can bring him to the United States, where I am likely to want such person and to utilize him; and for the Senator to suggest that this means nothing more than that a citizen of the United States going to China, and being there may there employ a man to assist him in literary labor is, it seems to me, entirely unwarranted.

Mr. LODGE. I only asked if it was expressly stated.

Mr. FORAKER. No; I say it is not expressly stated. But I submit that there is no room for argument as to what is intended, and the right is given and broadly given to the Chinese on the one hand to employ Americans and American teachers and American people of literary qualities to assist them, and then, reciprocally, the right is given to the people of the United States to employ that class of Chinese people. That provision is now in force. That was the treaty of 1858, and without further comment I pass from it to the next treaty, which is known as the

"Burlingame treaty."

I need not comment on the circumstances attending the negotiation of that treaty. All are familiar with it. It was thought at the time to be one of the most brilliant chapters in American diplomacy. When Mr. Burlingame, resigning his position as minister to China, headed an embassy and brought it to the United States, attracting the attention of the whole country, visiting Washington, visiting Congress, he was everywhere received with acclaim, and as a result of it all he negotiated and secured the ratification in due time of what is known as the "treaty of 1868." Ten years had passed since the other treaty from which I have been reading had been put into operation.

Now, what is the character of this Burlingame treaty? It is not a general treaty, but it is, according to the expressions of the treaty itself, a supplementary treaty. The purpose of it was to adopt "additional" articles to the treaty of 1858. There was not a thing in the treaty of 1858 interfered with. However, as I said a moment ago, the treaty of 1858 did not deal with the subject of immigration. This dealt almost exclusively with that, and this was negotiated and adopted because there was no provision about

immigration in the treaty of 1858.

Now, in this treaty, the articles of which are additional to the treaty of 1858, not inconsistent with, those occur Articles V and VI, both of which I wish to read. Senators are already pretty familiar with them, but I desire to have them put in the RECORD in this connection.

#### ARTICLE V.

The United States of America and the Emperor of China cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects, respectively, from the one country to the other for purposes of curiosity, of trade, or as permanent residents. The high contracting parties therefore join in reprobating any other than an entirely voluntary emigration for these purposes. They consequently agree to pass laws making it a penal offense for a citizen of the United States or Chinese subjects to take Chinese subjects either to the United States or to any other foreign country, or for a Chinese subject or citizen of the United States to take citizens of the United States to China or to any other foreign country without their free and voluntary consent, respectively.

#### ARTICLE VI.

Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most-favored nation; and, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities, and exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most-favored nation. But nothing herein contained shall be held to confer naturalization upon citizens of the United States in China nor upon the subjects of China in the United States.

Stopping there for the moment, for there is another section to which I wish to call attention and read, there is by the adoption of Articles V and VI the unlimited right, the unrestricted and unrestrained right, conferred upon the Chinese to come and go in this country just as the citizens of other countries come and go with whose countries we have treaty relations. Now, passing sections 5 and 6, I wish, Senators, to call particular attention to

article VII, for this article is supplementary to the article upon which I have commented, found in the treaty of 1858. It relates to education, scholars, teachers, and their rights, not naming them in the way they are named in subsequent treaties, but as I shall read; and this stands as section 25 of the treaty of 1858 stands, absolutely without change or modification down to this moment:

#### ARTICLE VII.

ARTICLE VII.

Citizens of the United States shall enjoy all the privileges of the public educational institutions under the control of the Government of China; and, reciprocally, Chinese subjects shall enjoy all the privileges of the public educational institutions under the control of the Government of the United States which are enjoyed in the respective countries by the citizens or subjects of the most favored nation. The citizens of the United States may freely establish and maintain schools within the Empire of China at those places where foreigners are by treaty permitted to reside; and, reciprocally, Chinese subjects may enjoy the same privileges and immunities in the United States.

That stands unaffected by any subsequent treaty provision. Mr. LODGE. Do I understand the Senator to say that it stands so entirely unaffected by the treaty of 1894 that Chinese laborers

can come in under that clause?

Mr. FORAKER. No, sir; not at all. I do not suppose anybody would want to bring here a Chinese laborer of the type we are seeking to exclude for the purpose of establishing an educational institution or assisting in the conduct of it, but what I wish to call attention to is that the Chinamen, by our treaty obligation which is to-day in force, have a right to establish and maintain educational institutions in this country, and therefore, of course,

to bring here everybody necessary thereto.

Now I am coming, as I said at the outset I would, by proper approaches, to the very point in all this controversy. The question about which we are concerned is not a question as to the admission of laborers; we are all agreed that they shall be excluded; but the question is whether or not the exempted classes, those who are not laborers, shall be allowed to come, and when we have a provision of this kind, viz, that the Chinese have a reciprocal right to establish and maintain educational institutions in this country, to conduct them, to teach the Chinese language, or anything else they want to teach in those educational institutions, we have no right to render nugatory, null, and void a provision of that kind; and an attempt to do it is a violation of the honor of this country-something you can not afford to do, no matter at whose behest we are asked to do it.

Down to and including the treaty of 1868 we have this status resulting from our treaties, that everybody in China, a subject of the Empire, who may want to come to the United States has the free and unrestricted right to come, and the Chinese have the right to establish and conduct educational institutions here. exercised our reciprocal right to do that. I do not know how many American institutions there are in China maintained today, but there are more than one. The Chinese would have the right to have any number they might see fit to have in this country because of that clause of the treaty. Nobody has ever sug-

gested a modification of it.

So much for the treaty of 1868, which let everybody in. The Chinese proceeded to avail themselves of that privilege, and it was not long until we recognized that a mistake had been made—a mistake in this, and in this alone, that the unrestricted immigration into this country of laborers was prejudicial to our body politic and to our best interests.

Mr. STEWART. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Nevada?

Mr. FORAKER. Certainly.
Mr. STEWART. That treaty recognized the evil of Chinese importation under contract. China in that treaty undertook to stop it and failed, and then, as they came in under contract just as before, the United States was bound to act.

Mr. TELLER. Is that the treaty of 1880?

Mr. STEWART. The Burlingame treaty of 1868. Mr. FORAKER. I have already said essentially that. We got better acquainted after the treaty of 1868, and the influx to which we were subjected of Chinese laborers-

China was unable to carry out her part of Mr. STEWART.

the treaty to stop the incoming of Chinese.

By the treaty of 1868 China did not under-Mr. FORAKER. take to stop it. Chinese subjects were given a right to come to the United States.

Mr. STEWART. I beg pardon.

Mr. FORAKER. The Senator must be thinking of the treaty of 1880. By the treaty of 1868 it was dealt with in the way I have

Now, following that came the treaty of 1880. I was about to say the laborers came so thick and so fast that we became apprehensive that bad results would ensue, and at the solicitation of the United States, as the treaty itself recites, China yielded to another negotiation. As the result of that the right of immigration was modified. There was not a modification of the right to establish and maintain educational institutions in this country. There was no modification of the right of any kind of a professional man to come into this country. There was no modification which touched any class of people coming into this country except only the class of laborers.

Mr. STEWART. I beg the Senator's pardon. I was mistaken

in the treaty.

Mr. FORAKER. Ithought the Senator had misunderstood me as to the treaty to which I was referring.

Mr. STEWART. The Senator from Ohio is correct. Mr. FORAKER. I am now coming to the treaty to which the Senator alludes, or, rather, I will after I am through with this. Now, in this treaty, in view of our desire to restrict Chinese labor, we finally succeeded in securing this agreement, and the record shows that China granted it reluctantly and only after assurances were given by our commissioners as to fair dealing and that it was for the best interest of all concerned. However, that is outside of the record. We stand on the treaty. Article I of this treaty says:

ARTICLE I.

Whenever, in the opinion of the Government of the United States, the coming of Chinese laborers to the United States, or their residence therein, affects or threatens to affect the interests of that country, or to endanger the good order of the said country or of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it. The limitation or suspension shall be reasonable, and shall apply only to Chinese who may go to the United States as laborers, other

classes not being included in the limitations. Legislation taken in regard to Chinese laborers will be of such a character only as is necessary to enforce the regulation, limitation, or suspension of immigration, and immigrants shall not be subject to personal maltreatment or abuse.

Stopping there now for a moment, we all know from the recitals in the preamble to this treaty that it was the purpose of the treaty to deal only with Chinese laborers and no other class, and that the only purpose of dealing with that class was to restrict the right of that class to come to this country.

Mr. SPOONER. My attention was distracted for the moment. I should like to ask from what the Senator is about to read.

Mr. FORAKER. I am reading from the treaty of 1880. I am reading from the Compilation of Treaties of 1899. The preamble, which goes before the article I have just read, recites the purpose of the treaty.

Whereas the Government of the United States, because of the constantly increasing immigration of Chinese laborers to the territory of the United States and the embarrassments consequent upon such immigration, now desires to negotiate a modification of the existing treaties which shall not be in direct contravention of their spirit, etc.

Showing that the purpose of it was to deal with the laboring classes.

Now, I wish Senators to note that until this time there was no restriction upon any class, any laborer, skilled or unskilled, any professional man, any man of character, quality, or degree, who was the subject of the Chinese Empire; all had a free and unrestricted right to come to the United States, subject to no other disadvantages or inconveniences than those we imposed on the citizens of the most favored nation.

Mr. CULLOM. And our people had a right to go there.

Mr. FORAKER. And our people had a right to go there. This article provides that as to laborers the United States may, when in its opinion that may be necessary—

regulate, limit, or suspend such coming or residence [of laborers], but may not absolutely prohibit it. The limitation or suspension shall be reasonable and shall apply only to Chinese who may go to the United States as laborers, other classes not being included in the limitations.

That is the provision in that article. Now follows the second article, and I ask Senators' attention to this particularly, because it has been contended in this debate that because in the second article of the treaty of 1880 certain exempted classes are named, no others who are Chinese, except only those who belong to the exempted classes, are allowed to come. Senators take that position notwithstanding the fact that in this treaty where occurs this article it is provided that only laborers are to be affected. Now, let me read this article, and then I will give you my iûea, whether it is right or wrong, as to what the article means:

#### ARTICLE II.

Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or travelers from curiosity, together with their body and household servants, and Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most favored nation.

I say it has been contended in this debate that because in Article II teachers, students, merchants, and travelers are enumerated no other classes of people who are not laborers can come in. In other words, because of the recitation here in this way of these facts and the repetition of them in the treaty of 1894, bankers,

brokers, civil engineers, every other class of educated men, the great publicists (and they have some of the greatest in the world), and all of their great literary men are excluded; that unless a man is a teacher, unless he is a student, unless he is a traveler, unless he is a merchant, coming within the definition given in this bill, and in certain Treasury regulations which have been relied upon as law, but which I will undertake to show are in open violation of our treaty obligations, he can not come in, narrowing it so that if China were to treat us reciprocally she would have a right, if we pass this bill, to say that inasmuch as the United States, by its Congress, has enacted that no minister, no physician, no engineer, no broker, no salesman, no clerk, no learned man of any character or description shall come into the United States, neither shall any such man come into China from the United States.

Mr. PLATT of Connecticut. Under this construction of the law and treaties and this bill would it have been possible for Li

Hung Chang to have come to the United States?

Mr. FORAKER. Not at all.

Mr. PLATT of Connecticut. Except as an official.

Mr. FORAKER. Except as an official. Independently of his official character, Li Hung Chang could not have come. He is not a teacher, he is not a student, he is not a merchant, he is not

a traveler within the definition given in this bill.

He could not have come here: and I say if China were to treat us reciprocally—and by what authority do Senators say she would not treat us reciprocally if we enact such legislation as this—she would, by an edict, which could be issued in an hour's time by the Emperor, debar from China every missionary who is there, shut up every educational institution we have there, shut out every civil engineer we have there engaged in carrying on American work, in which American capital has been invested. We are building railroads there. We are spending millions of dollars in They could drive every American out, if they would only act reciprocally. That is all they would have to do. Who has the right to say they would not do it? Why should they not meteout to us our measure to them?

The Senator from Massachusetts [Mr. Lodge], speaking here on Saturday last, said that by the treaty of 1894 the Chinese Government undertook to cooperate with us to exclude Chinese laborers, and he challenged anybody to point out an instance where it had assisted and cooperated. I regret that the Senator from Massachusetts is not in his seat. I thought he was there when I referred to this. I will say, however, as I have said that much about it, that I took occasion this morning to go to the State Department to ascertain whether or not there had been any charge made by this Government against the Chinese Government, or any representative of the Chinese Government, of dereliction in the discharge of their undertakings under the obligations of this treaty, and I was told at the State Department that not a single instance of the kind did they have any knowledge of.

In this connection I call attention to a clause in the letter of the Chinese minister, about which we had some debate here on Saturday. I will refer to it now only for that purpose. In the course of this, I think, most admirable letter—admirable in spirit, admirable in point of ability, admirable in its qualities of politeness, logic, and everything else that you can think of-he says. before concluding, addressing Mr. Hay, our Secretary of State:

You know that in regard to the exclusion of laborers my Government and myself have stood ready to cooperate with your Government in making the treaty prohibition effective.

The entire letter is as follows:

CHINESE LEGATION, Washington, March 22, 1902.

SIR: When the Chinese Government consented in 1880 to a modification of SR: When the Chinese Government consented in 1880 to a modification or the treaty of 1868, whereby the free immigration of Chinese laborers into the United States was restricted, it was provided in the treaty that where the legislation of Congress authorized by that convention was likely to work hardship on the Chinese subjects the minister in Washington would be permitted to communicate with the Secretary of State, to the end that mutual

and unqualified benefit might result.

In making use at this time of the privilege granted in the cited treaty pro-In making use at this time of the privilege granted in the cited treaty provision I desire not to be understood as antagonizing the just provisions of pending legislation or influencing Gongressional action, but to bring to your attention, and through you to Coogress, some of the hardships which will inevitably result to the subjects of China in case some of the proposed legislation should become a law. Should I remain silent until the bills now before Congress be enacted into a law, it will then be too late to remedy the evil. I trust, therefore, that what I say to you may aid the honorable Congress in making a right conclusion on the subject.

I desire especially to direct attention to the bill S. 2960, which has been reported to the Senate from the Committee on Immigration. In the concluding paragraph of the report which accompanies the bill it is said:

"There can be no doubt that under a wise, humane, and fearless enforcement of this act the importation of Chinese laborers will be prevented and the ingress of Chinese merchants and others of the exempt classes facilitated, and that the present relations between the United States and China will be strengthened thereby."

I feel it my duty to say to you, and through you to the Congress which

I feel it my duty to say to you, and through you to the Congress which will soon be called to act upon this bill, that if it becomes a law it will have just the contrary effect from that stated by the committee. It can not fail to seriously disturb the friendly relations which have up to the present ex-

to seriously disturb the friendly relations which have up to the present existed between the two Governments and peoples.

I do not wish to go into the different provisions of the bill in detail, but I should like to call your attention in a general way to its effects. It restricts the privileged Chinese persons, other than laborers, to come to the United States to only five classes, viz, officials, teachers, students, merchants, and travelers, in direct contravention to the treaty of 1880, in Article I, where it states that the limitation or suspension of immigration shall apply only to laborers, "other classes not being included in the limitation." So also the history of the negotiation shows that it was the intention of the two Governments that laborers alone were to be excluded. Under the bill there would be excluded.

Under the bill there would be excluded bankers, capitalists, commercial agents or brokers, and even merchants who come only to make purchases; also scholars and professors, of which there are many in China of high attainments; also physicians, clergymen, and many other classes which do not fall

ments; also physicians, clergymen, and many other classes which do not fall under the five classes exempt by the bill. The provisions of the bill as to the five exempt classes are so restrictive as to practically nullify the treaty in regard to them. The definitions as to teachers, students, and merchants are so contrary to the spirit of the treaty as to make them almost impossible of cheargage.

observance.

A woman married according to the Chinese custom to a person of the ex-

A woman married according to the Chinese custom to a person of the exempt classes would be prohibited from entering the country, because according to the provision of the bill it is necessary that the marriage shall be legal and binding by the laws of the United States.

The bill requires that all Chinese laborers now in the United States shall undergo a new registration. It will be remembered that my Government remonstrated against the first registration that was proposed under the Geary law, and only consented to it at the earnest request of the Secretary of State at the time. All the Chinese laborers submitted to that requirement and were registered, and now it is proposed to nullify all that and subject them to the annoyance and trouble of a new registration. It is an unnecessary hardship and should not be required.

The bill also contemplates the registration of all merchants and of others

The bill also contemplates the registration of all merchants and of others of the exempt class. This can not be required under the treaty, but the bill attempts to obviate that obstacle by making the failure to register a serious prejudice of their rights.

I have heretofore complained to you of the great hardships to which laborers, merchants, and others are subjected after they have been admitted to the United States and are lawfully domiciled in this country. Past experience shows that Chinese have been arrested by the wholesale, placed in jeopardy, and subjected to molestation and insult. When found innecent, no redress is obtained for such illegal arrest. Persons charged with being unlawfully in the country and taken before a court are denied the privilege of bail, but must remain in jail until their case is decided. The bill, in place of providing some relief for these hardships, rather adds restrictions thereto. The provisions with regard to transit across the United States imposed by this bill are almost impossible to be complied with, because people who are passing through the United States en route to other countries do not know the laws of the country, and they can not understand the intricate rules and regulations made by the Commissioner-General of Immigration.

The report of the committee says that "the greatest degree of fairness and justice to the exempt classes will be insured by the provisions of the bill, which provides better means for the investigation and disposition of their claims." And again it says: "The features of the bill \* \* \* will tend to protect the worthy immigrant in his treaty rights and privileges."

I have referred to the fact that the provisions as to the admission of the exempt classes are in direct violation of the treaty; and in addition to this the bill provides that the exempt classes must submit their right to admis-

I have referred to the fact that the provisions as to the admission of the exempt classes are in direct violation of the treaty; and in addition to this the bill provides that the exempt classes must submit their right to admission to the adjudication of the Immigration Bureau, which, as I showed in my note to you of December 10 last, was a purely ex parte investigation, where the claimant was not permitted to confront the witnesses, was deprived of the privilege of counsel, and was excluded from an appeal to the courts. I can not understand how the committee can style this "the greatest degree of fairness and justice," or how the "worthy immigrant is protected in his treaty rights and privileges." It seems to me, on the contrary, that his treaty rights are taken away from him.

The provisions of the bill above referred to, and others which m g it be cited, place so many restrictions upon Chinese persons and require t\_em to comply with such strict provisions that no Chinese having the least respect for himself would submit to such indignities and come to this country. Ifear the effect of the bill, if it becomes a law, will be that Chinese merchants will not come here to buy goods nor students come for educational purposes.

Another feature of the bill must be alluded to. The new possessions of the United States, such as Porto Rico, the Hawaiian Islands, the Philippines, and others which may hereafter be acquired, are subjected to its provisions. It can not be claimed that they were considered when the treaty was negotiated, and it is hardly just or in accordance with international comity that the treaty should be extended to them without the consent of China.

I have received repeated instructions from the Imperial Government, in view of the venue extended to them without the consent of China.

the treaty should be extended to them without the consent of China.

I have received repeated instructions from the Imperial Government, in view of the reenactment of the exclusion laws, to exert myself to see that treaty rights are observed and that no unnecessary hardships are placed upon Chinese subjects, and I feel that on account of the pendency of the legislation referred to I could not refrain from asking you to lay before the honorable Congress the views above set forth. You know that in regard to the exclusion of laborers my Government and myself have stood ready to cooperate with your Government in making the treaty prohibition effective. But with meany to the exercity of the company of the property of the country of the company of the property of the country of the regard to the exempt classes who seek to come here for trading, educational,

regard to the exempt classes who seek to come here for trading, educational, and other legitimate purpose, I must earnestly protest against the unwarranted and unjust provisions of the bill.

In place of "insuring the greatest degree of fairness and justice," as stated by the Immigration Committee, it would impose such indignities and hardships upon these classes that few, if any, would come here. And notwithstanding the sincere wish of my Government and myself to maintain and cement closer the friendly relations between the two countries, I greatly fear that those friendly relations would been dangered by the enforcement of fear that those friendly relations would be endangered by the enforcement of

theact

Accept, sir, the renewed assurance of my highest consideration.

WU TING-FANG.

Hon. JOHN HAY, Secretary of State.

Mr. FORAKER. Mr. Hay sent that letter to the Senate of the United States without taking any exception to that statement. He acquiesced in it, and he acquiesced in it because he had no ground to take exception to it—no ground, I say, because of what I learned at the State Department this morning. There is not one single charge registered there against the Chinese Government with respect to its obligations under these treaties to assist in making this prohibition effective—not one.

Now, another thing. When we read in this treaty, in Article I and in the preamble, that it has reference only to the laboring classes, we are quite prepared, it seems to me, if we are going to take the sensible view of how the language should be construed, if we are going to take the instrument by its four corners and read it altogether, to take issue with those who say that the enumeration of the five exempted classes excludes all other classes, who are not laborers. Let me read it again:

Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or from curiosity, together with their body and household servants, and Chinese laborers who are now in the United States, shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most favored nation.

Just preceding that it is stated that Chinese laborers shall be excluded, but that no other class shall be included in that exclusion, and yet we are told that because five classes are named, on the principle that naming one excludes all others, all others are

to be barred out and were intended to be.

Mr. President. it is just as manifest as anything can be—and I reached that conclusion as soon as I read these treaties and before I had any knowledge of the facts in regard to this matter—that those classes were enumerated by way of illustration, not as an intended enumeration of all the educated classes who might come in, and that the way to read it, in view of the first article, in which it is expressly stated that only laborers are to be excluded, is:

Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or as travelers from curiosity, etc.

That would convey the proper meaning; that would show that it was the intention of the parties to bar out laborers and let everybody else come in, and that they enumerated a number of classes

only to indicate what classes might come.

Now, I have confirmation of that. My visit to the State Department was not in vain. I found that on December 10 the Chinese minister sent a communication to the Secretary of State, which was sent to the Committee on Foreign Affairs of the House. It is a very able communication. I do not know why it was not sent to the Senate. I do not know why it does not appear in the reported hearings had before the committee. This document is dated "Chinese Legation, Washington, December 10, 1901." On page 5 of this publication—

Mr. TELLER. What document is it?

Mr. FORAKER. This is entitled "Exclusion of Chinese Laborers." It has not been printed as a Senate document. I think it ought to have been as a part of the hearings before the committee, and I will ask to have it printed as a Senate document.

Mr. FAIRBANKS. If the Senator will allow me, I hold in my hand a Senate document which is a republication of the letter of the Chinese minister to the Secretary of State of the same date.

Mr. FORAKER, Perhaps that is this.

Mr. FAIRBANKS. It is dated December 10, 1901.

Mr. FORAKER. I am very much obliged to the Senator. I did not know such a document had been printed. I have never been able to find it, and it was placed in my hands only this morning.

Mr. FAIRBANKS. It is No. 162, but I do not know whether

it is the same document or not.

Mr. FORAKER. What the Senator from Indiana calls my attention to, and I am very much obliged to him for doing it, is the same thing. I was not aware it had been printed as a Senate

document. In view of that, I withdraw my request if I had made it, as I intended to do, that it may be printed as a Senate document. On page 5 of the publication, as I have it before me,

appears the following from the Chinese minister:

The treaty of 1894 in its preamble recites the object of the treaty of 1880, and gives as the reason for its amendment "the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise." Thereupon it amends Article I of the treaty of 1880, under which the immigration of Chinese laborers could be suspended, but not absolutely prohibited, by authorizing their absolute prohibition for ten years-

He is speaking now of the treaty of 1894, which I have not yet come to, but will in a moment. In this respect the two treaties are practically the same, so what I am putting in here is applica-

ble to the treaty of 1894 as to that provision:

And it amends Article II, as to Chinese laborers, under which they were allowed to go and come of their own free will and accord, by restricting their return to the United States by the terms set forth in Article II of the new return to the United States by the terms set forth in Article II of the new treaty. A provision not found in the treaty of 1880 is added, as to registration of "Chinese laborers;" but in no other respects is the treaty of 1880 modified or affected by the treaty of 1894, except as already stated respecting the certificate to be given to Chinese subjects residing in foreign lands. It repeats in Article III the recital of "officials, teachers, students, merchants, or travelers for curiosity or pleasure," but expressly states that their right of coming to the United States is under the status "at present enjoyed;" that is, under the treaty of 1880, In the Chinese text of Article II of the treaty of 1890 and of Article III of 1894, the words "officials, teachers, students, merchants or threadys for quiestly or pleasure," are followed by the words "et chants, or travelers for curiosity or pleasure" are followed by the words "et cetera

Which clearly shows the intention of the negotiators and con-

firms my argument on this point.

Now, Mr. President, I said before reading this that to any man accustomed to the construction of language, to any man capable of analyzing the provisions of a treaty, it would necessarily be manifest when he would come to read this treaty as a whole and construe this provision in connection with the context, that he would have to read it in order to give good sense to it, with an "et cetera" following, or, as "for illustration," or some language of that kind, thrown in simply to show that the recited classes were only illustrations of the classes that were to be admitted. Necessarily he would have so to treat it because the treaty, so plainly that no man can misunderstand it, expressly declares that only laborers are to be excluded and that no other class shall be affected by that limitation or restriction.

My contention is, therefore, Mr. President, that after the treaty of 1880 had been negotiated and put into operation our status was this: We had a treaty of peace, amity, and commerce with China, under which they had a right to come into this country subject to this restriction, that laborers could not come if we saw fit to suspend the right, but that all other classes had a right to come of their own free will and accord—teachers, merchants, travelers for curiosity, officials, students, publicists, physicians, theologians, Confucians, philosophers, anybody who might see fit to come, who was of a class of citizens in China not included within

the broad term of laborer.

Mr. MITCHELL. Mr. President-

The PRESIDING OFFICER (Mr. Kean in the chair). Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. With pleasure. Mr. MITCHELL. Can the Senator from Ohio give any good reason, if his construction is correct, why only the five exempted classes were inserted? If everybody else except cooly laborers

were to have the privilege of coming in, why was the provision inserted that merchants, students, teachers, and travelers for

curiosity or pleasure should be permitted to come?

Mr. FORAKER. If the Senator from Oregon was in the Chamber when I was dwelling upon that, I have spoken to very little purpose, for I have been seeking for the last ten minutes to show that identical thing.

Mr. MITCHELL. I confess that I came in only a moment ago. Mr. FORAKER. Yes: I thought so. I have been explaining, if the Senate will indulge me while I briefly repeat, that in the Chinese text of the treaty of 1880 these words are followed by the words "et cetera," showing that they were used only for illustration. The same thing occurs in the treaty of 1894, according to the communication which I have read.

Now, Mr. President, if I may have the Senator's attention further—and I hope the Senator will honor me with his attention

until I finish answering his question-

Mr. MITCHELL. Certainly; I beg pardon. Mr. FORAKER. In the treaty of 1880 it is expressly provided that it is to deal with the laborers and nobody else. In Article I it is provided that this Government shall have the right to limit, regulate, or suspend, as it may see fit, in its judgment, having reference to certain purposes enumerated, the right of laborers to come into this country. But it expressly provides that that right of restriction shall not apply to any other class.

Mr. MITCHELL. But that is not the language of the treaty.

It does not say it shall not apply to any other class.

Mr. FORAKER. I am quoting the exact language of the treaty. The Senator is mistaken. In article first, and that is what I am talking about, there is this language:

Whenever in the opinion of the Government of the United States, the coming of Chinese laborers to the United States, or their residence therein, affects or threatens to affect the interests of that country, or to endanger the good order of the said country or of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it.

Now, that refers only to laborers.

The limitation or suspension shall be reasonable and shall apply only to Chinese who may go to the United States as laborers, other classes not being included in the limitations.

Mr. MITCHELL. But, Mr. President, if the Senator will allow

The PRESIDING OFFICER. Does the Senator from Ohio yield?

Mr. FORAKER. Certainly.

Mr. MITCHELL. If physicians, lawyers, and bankers were to have the privilege of coming in, as stated by the Senator, why did they insert the clause to the effect that merchants, teachers, students, and travelers for curiosity or pleasure should be permitted to come? Does not the rule, expressio unius, etc., apply?

Mr. FORAKER. "Expressio unius est exclusio alterius" would apply if there were nothing else here but a simple statement that certain enumerated classes should have a right to come, but you must read the whole instrument together, and that rule does not apply and can not apply here, because, in the first place, it says all laborers shall be kept out and no other class shall be kept out. Only laborers are to be excluded. Then it proceeds:

Chinese subjects, whether proceeding to the United States as teachers, students, etc.

That is for illustration, is my contention, and the Chinese text

of this treaty sustains that contention.

Mr. MITCHELL. I suppose the Senator is aware of the fact that the construction placed upon that treaty by the Treasury Department and also by the courts is different from that which he finds.

Mr. FORAKER. That is next in order, after I call attention

to the treaty of 1894.

Mr. PLATT of Connecticut. May I here, as shedding some additional light on this argument, call attention to the language of the treaty as proposed by our commissioners? In that treaty as proposed were these words:

And the words "Chinese laborers" are herein used to signify all immigration other than that for teaching, trade, travel, study, and curiosity hereinbefore referred to.

That was objected to by the Chinese commissioners and was abandoned by our commissioners. This is found on page 178 of Foreign Relations.

Mr. FORAKER. I have no doubt whatever but that those words were injected here simply for illustration, not to name those who might come and upon the principle of exclusion re-

ferred to exclude everybody else.

Now, the Senator from Oregon asked me, and I call attention to this particularly, if it be true that the construction I am contending for is the correct one, why is it that the Treasury Department and everybody else construed it differently? I am surprised that the Senator should ask that question, because he is mistaken in his assumption. The Treasury Department never did so construe it until within the last five or six years, until the administration of this law fell into the hands that are now administering it. On the contrary, until then, they construed it precisely as I contend it should be construed, and the Supreme Court of the United States itself so construed it.

I call the Senator's attention, in the first place, to the decision of the Supreme Court of the United States in the case of Wang Shing v. The United States (140 U.S., p. 424). The syllabus of this case I will read. The decision was on the 11th day of May, 1891. It considers all the legislation enacted down to that time, and all the treaty provisions that we had agreed upon down to that time. Therefore, it passes upon the treaty of 1868 and 1880 and the legislation of 1882, 1884, and 1888. What do the Supreme Court say? They had before them the treaty of 1880, the last which at that time had been entered into. They say, in view of it all, after carefully considering and reviewing it all:

The result of the legislation respecting the Chinese would seem to be this: That no laborers of that race shall hereafter be permitted to enter the United States, or even to return after having departed from the country, though they may have previously resided therein and have left with a view of returning; and that all other persons of that race, except those connected with the diplomatic service, must produce a certificate from the authorities of the Chinese Government, or of such other foreign governments as they may at the time be subjects of, showing that they are not laborers, and have the permission of that government to enter the United States, which certificate is to be viséed by a representative of the Government of the United States. viséed by a representative of the Government of the United States.

In other words, Mr. President, the Supreme Court of the United States in 1891, reviewing this identical treaty upon which I have been commenting and reviewing all our legislation prior to that time enacted, said the effect of it all was to exclude laborers and to allow everybody else to come who was not a laborer on the production of a certificate from his own government viséed by our

representative at the place where it was granted.

Now, does not that foreclose this whole matter? And, Mr. President, how was it as to the Treasury Department? We are told in this debate about Treasury regulations. There were no Treasury regulations until quite recently inconsistent with this contention. On the contrary, all our Treasury regulations recognized that we had a right to exclude laborers, and did not have a right to exclude anybody else. Never until 1898 was there a different rule. at which time an opinion was given by the Attorney-General, which has made all this trouble.

But, Mr. President, the whole case is as clear as anything can

Here is what Hon. John G. Carlisle, while he was Secretary of the Treasury, said on this subject. I have known Mr. Carlisle all my life. I practiced law with him at the same bar practically. He lived across the river from Cincinnati, in Covington, Ky., and practiced there for thirty years or more. He is known, however, to this body. He was a member of it for years. Every man knows that he is one of the foremost lawyers of this country. Here is how he construed this matter. In the directions which he gave on the subject in 1893, he said:

No class of Chinese are prohibited from coming into the United States, or remaining there, except such as may properly and within the meaning of said statutes be known as "laborers."

It was in 1880 that that treaty was adopted. I gave the Senate my opinion as to how it should be construed. The Senator from Oregon rose in his place to know, if I contended for that, why it was that the courts and Treasury officials had construed it in the opposite way, so that not only laborers but every other class of people except the expressly enumerated class were excluded.

My answer to him is that the courts and the Treasury officials never did so construe it until 1898, but they construed it just as I have construed it, just as every man who conscientiously and candidly examines this matter, it seems to me, is bound to construe it, that by the treaty it was intended to preclude laborers and allow everybody else to come in, and that the five exempted classes that were named for purposes of illustration, and it was never dreamed that we were to bar out representatives of mercantile houses, salesmen, brokers, civil engineers, publicists, physicians, theologians, and other men who were desirable in this country.

Mr. GALLINGER. Mr. President, if it will not interrupt the Senator, I should like to put into the Record two recent cases where Chinamen were refused admission to this country.

Mr. FORAKER. If the Senator will allow me to put in one other ruling: I will then quit that point, and I would rather do that in this connection.

Mr. GALLINGER. Certainly.

Mr. FORAKER. I gave you what Mr. Carlisle said in 1893. In 1896 Hon. Charles S. Hamlin, Acting Secretary, to whose De-

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partment Chinese matters especially belonged, announced the following, shown in Regulations of 1896, at page 9. He says:

The persons referred to in the acts of Congress to which these regulations applied, and whose immigration into the United States is prohibited, are limited to Chinese laborers.

That was in 1896, and there was never, Mr. President, until after 1896, an attempt on the part of any Treasury official to give to this any other interpretation, and 1896 was two years after the treaty of 1894 was negotiated and put into operation.

Now, I yield to the Senator from New Hampshire to put into the RECORD what he desires to put in, while I look up the treaty

of 1894.

Mr. GALLINGER. Mr. President, my attention has been called to two cases in point. One is as follows:

This certificate is issued to Tang Pao Tung, the person hereinafter described, and whose photograph is hereto attached, a Chinese person "other than a laborer," who is about to go from China to the United States, as evidence of the permission of the Chinese Government for him to go to the

United States and as a means of establishing his identity.

Alte or official rank,
Age, 16 years; height, 5 feet 2 inches.
Physical marks and peculiarities,
Former occupation or profession, a student.
Present occupation or profession, a student.
Where pursued, in Shanghai. When For how long Resides at, Shanghai. Nature of business (merchant) Character of business (merchant) -Estimated annual value of business (merchant) -Hong name -Street number -City -Province -

Intends to go within the United States to study the English language at his own expense.

Financial standing in place of residence, his father is a comprador of Dodwell & Co., Limited. This above-described man (or woman) is entitled to come within the

United States. Viséed, June 28, 1901. JOHN GOODNOW,

Consul-General, United States of America, Shanghai. YUAN, Taotai of Shanghai.

Note.—This certificate must be filled out exactly and signed by the duly authorized Chinese official. It must be viséed by the United States consul after proper proof is given him of the correctness of the statements herein. Tang Pao-tung, the holder of the above certificate, arrived at Malone, N. Y., in July, 1901, and applied to the collector of customs at that port for admission into the United States as a student. His application was denied on the ground that, as stated in his certificate, his coming to this country to study the English language did not make him a student. Accordingly, he had to return to China. There is not the least doubt that Tang Pao-tung was a student within the meaning of treaty provisions. His father was a comprador, one of that wealthy class of Chinese who act as middlemen between foreign importing houses and Chinese merchants in China, and was amply able to provide him with necessary funds during his stay in this country.

There was no question of fraud in this case. The applicant was denied admission on a mere technicality.

mission on a mere technicality.

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## The other, Mr. President, is the case of Yee Ah Lum:

CERTIFICATE FOR MERCHANT.

To all to whom these presents may come:

This is to certify that Yee Ah Lum, a Chinese person "other than a laborer," is about to go to the United States and is hereby permitted and entitled under the provisions of section 6 of the act of Congress of the United States of America, entitled "An act to execute certain treaty stipulations relating to Chinese, approved May 6, 1882, as amended July 5, 1884," and the treaty between the United States of America and China, dated November 17, 1880, and the treaty between said Governments dated December 8, 1894, to go within the United States of America upon presentation of this certificate to the collector of customs of the port in the district of the United States at which he shall arrive which he shall arrive.

The individual, family, and tribal name in full of said permitted person is: Individual, Lum; family, Ah, and tribal, Yee. The following is the name of the said permitted person in his own proper signature:

His title or official rank is -

His age is 20 years. His height is 5 feet 41 inches.

His physical peculiarities are well-defined scar on left side of forehead. His physical peculiarities are well-defined scar on left side of forehead. His former and present occupation is that of merchant, doing business under the name of Chuen Chin, having a capital of \$12,000, and this applicant's interest therein is \$4,000 in such business which he pursued in Canton

can't sinterest therein is \$4,000 in Such business which he pursue to for the period of three years.

His place of residence has been in San Ning, Kwang Tung, China.

This certificate is issued in accordance with the provisions of the treaties and laws aforesaid, and it is evidence of permission having been granted to the said Yee Ah Lum to depart from China for the purpose of visiting the United States

Issued by the Imperial Government of China at the office of the superintendent of the imperial customs at Canton. In witness whereof I have hereunto set my hand and affixed the seal of my office on the 30th day of May, 1899

> CHWONG SHAN Superintendent of Imperial Customs, Canton, China.

I, Hubbard T. Smith, vice-consul of the United States at Canton, do hereby certify that I have examined into the truth of the statements set forth in the foregoing certificate, and find upon examination that the

the foregoing certificate, and find upon examination that the same are true; that the seal and signature to the foregoing [Photograph] certificate are the genuine seal and signature of the duly qualified and acting superintendent of the imperial customs at Canton. In witness whereof I have hereunto set my hand and affixed the seal of this consulate at Canton on the 1st day of June, 1899.

HUBBARD T. SMITH.

United States Vice-Consul in Charge.

Fee, \$1 gold.

#### [Indorsement.]

Certificate 82; serial 576; name, Yee Ah Lum; class, merchant; place, August 15, 1899, No. 685, Chinese; Ex. S. S. Gaelic, July 30, 1899; registration, ——; partnership, ——; landed, ——; denied September 11, 1899; J. P. Jackson, collector.

It is to be observed that no mention is made in the English portion of this certificate of the nature and character of the applicant's business, but in the Chinese portion it is expressly stated that he is a dealer in pearls and jade

Chinese portion it is expressly stated that he is a dealer in pearls and jade ornaments.

Yee Ah Lum, the holder of the above certificate, was one of some 30 Chinese merchants of Canton who came to the United States in August, 1899, for the purpose of buying American goods. Their applications for admission into this country were rejected by the collector of customs at San Francisco on the ground that their certificates were defective. The alleged defect was simply the omission of the particulars respecting the nature and character of their business in the English portion of the certificates, though such particulars were plainly stated in the Chinese portion. Thereupon Yee Ah Lum and the other Chinese merchants appealed to the Secretary of the Treasury, but the Secretary sustained the decision of the collector.

It was urged on behalf of Yee Ah Lum and other merchants that as there was no doubt that they were bona fide merchants they should be allowed to land on a good substantial bond, and that their certificates be sent back to China to get the American consult to supply the omission, but this reasonable request was not acceded to.

China to get the American country of the request was not accorded to.

They were accordingly deported. It was afterwards learned that they went to Europe to make their purchases

The above-mentioned cases are only typical cases of bona fide Chinese merchants and students who have been denied admission into the United States. Special attention is called to the fact that in the two cases above mentioned the proper consular officers of the United States certified to the truth of the statements contained in the certificates, and yet the applicants were not permitted to land on account of some frivolous objection or other. This is certainly contrary to the intent of treaty stipulations.

Mr. President, I simply put these two typical cases in the RECORD to show that the contention of the Senator from Ohio is true, that this is not only the exclusion of laborers but practically the ex-

clusion of all exempted classes.

Mr. FORAKER. Now, Mr. President, the next treaty was that of 1894. By the treaty of 1880 it was provided that the United States might, whenever in its opinion it was necessary for the purposes named, regulate, limit, or suspend. In 1894 another modification was negotiated by the treaty of that year agreed upon, and I call attention to it now before I call attention to the legislation that followed the treaty of 1880.

By Article I of the treaty of 1894 it was provided as follows:

The high contracting parties agree that for a period of ten years, beginning with the date of the exchange of the ratification of this convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited.

Article II goes into details as to how that provision shall be enforced with respect to laborers of a certain class. I will not stop to read it, because there is no contention about that.

Article III, however, is important, and it is as follows:

The provisions of this convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein.

I call attention to that. In a moment when I come to speak of this bill, I will point out that by the provisions of this proposed legislation a student can not come into the United States until, meeting all the other absurd and impossible conditions imposed. he agrees and stipulates also that immediately after the completion of his study he will depart from the United States. The treaty provision is that he may come, and having come he may reside in the United States, yet we are told that this proposed legislation is not inconsistent with the treaty.

Mr. PATTERSON. Mr. President, may I ask the Senator a

question?

Mr. FORAKER. Allow me first to read all this article. Mr. PATTERSON. It is in this direct connection.

The PRESIDING OFFICER. The Senator from Ohio declines to vield.

Mr. FORAKER. I should like to read all, and then I will vield with pleasure. I want it all to go into the Record together. The balance of Article III is as follows:

To entitle such Chinese subjects as are above described to admission into the United States, they may produce a certificate from their Government or the Government where they last resided viséed by the diplomatic or consular representative of the United States in the country or port whence they depart.

In other words, Mr. President, only laborers are prohibited, and all other classes have a right to come and here reside. I call attention in this connection to the fact that they are not required by this treaty to come here to follow here their avocations in China. A merchant in China has a right to come here because he is a

merchant. His right to come is not to be restricted to a case where he wants to become a merchant in the United States.

A man who is a student within the accepted meaning of that term has a right to come here, not because there is some particular study he wants to pursue in the United States, but because he is a student. And so it is with every other class named. The publicist is not, if he is within the exempted class, to be allowed to come here because he wants here to practice statesmanship, but because of his character.

Mr. MITCHELL. Will the Senator from Ohio allow me?

Mr. FORAKER. Certainly.

Mr. MITCHELL. This bill professes and purports to permit that very thing to be done. Now, I want to ask the Senator from Ohio what test he would apply for the purpose of determining

whether a man is a teacher or a merchant or a student?

Mr. FORAKER. I am coming to that in a moment. starting out that the fault I have to find with the bill in this respect is that the definitions given are unreasonable. They are of such a character, coupled with the requirements imposed upon them, as to make it impracticable for any of these classes to come.

Mr. MITCHELL. Now, what would be reasonable?
Mr. FORAKER. I was coming to that in a minute, but I will take it up now. I say it is reasonable, and it was enough that the contracting parties should say a man is a student. Does not the Senator know what a "student" is? Does not everybody know what is meant by a "traveler?" Does not everybody know what is meant by a "merchant?" This whole thing is simply an effort, Mr. President, never resorted to until after 1896, to refine and legislate away rights guaranteed by a treaty.

Mr. MITCHELL. The Senator says that I know and every-

body knows what is a "student."

Mr. FORAKER. I said the Senator knew. Mr. MITCHELL. Suppose a man comes from China and says to the collector of customs at Portland, Oreg., or at San Francisco, Cal., "I am a student." Must the collector take his word for it?

Mr. FORAKER. No, Mr. President; certainly not.

Mr. MITCHELL. Then what is the test?
Mr. FORAKER. Only a student can come in under the term "student;" and the treaty provides what credentials he shall furnish. He shall come armed with a certificate granted by his own Government and viséed by the consular representative of the United States at the port whence he sails. That is the only requirement that the treaty imposes, and that is reasonable and all that

should be required.

Mr. President, when this treaty was framed, in the first place, nobody dreamed that there would be any difficulty to determine what was meant by the term "laborer," and therefore it was thought enough to say that no laborer should come; that everybody else could come; and then these words crept in for illustration: Teachers, students, merchants, travelers, etc. That is what the Chinese treaty says, and what our treaty, I have no doubt, ought to say. That is what it is in effect.

Therefore, as I have just said, all classes except laborers have a right to come to this country. The only requirement that the Commissioners of the United States, negotiating this treaty, thought it necessary to impose was the requirement that those who would come should come with the certificate of their own government that they belonged to one of these exempted classes, and that that certificate should be viséed by our consular and diplomatic representative.

Mr. PATTERSON. Mr. President-

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Yes, sir. Mr. PATTERSON. I would ask the Senator from Ohio, in reference to his construction of the treaty of 1894 in this respect, as to whether it is amendatory of any preexisting or then existing treaty, or whether it is a separate and independent treaty, which takes the place of provisions of previous treaties relating to the admission of Chinese or the exclusion of Chinese from coming into the United States?

Mr. FORAKER. Mr. President, I have already answered the

question of the Senator from Colorado.

Mr. PATTERSON. I have not heard the Senator do so. Mr. FORAKER. Then the Senator could not have been in the Chamber all the time I have been speaking-

Mr. PATTERSON. Yes, sir; I have been here.

Mr. FORAKER. And I have certainly been speaking in audible tones.

By the treaty of 1868 all were given the right to come in. By additional articles, as they were called, of 1880, there was a modification of the right, giving us the right to "regulate, limit, or

But, then, by the treaty of 1880 there is a further modification of the provisions with respect to immigration. All these treaties are in this way ingrafted upon the treaty of 1868, which is still in full force and effect, except only as subsequent provisions are inconsistent with it.

Mr. PATTERSON. I should not desire to interrupt the Senator, except that this is a matter of some importance for us to know.

Mr. FORAKER. I will take pleasure in answering any ques-

tion the Senator may put to me, if I can.

Mr. PATTERSON. It is important for us to know whether the treaty of 1894, so far as it relates to the exclusion of Chinese and the incoming of the excepted classes, is a separate and independent treaty, setting aside all previous treaties on that subject, or whether it is simply amendatory of preexisting treaties,

Mr. FORAKER. Have I not answered that precisely? I started

out by answering it.

In the treaty of 1880, which was a modification, by which additional articles were agreed upon, and which treaty is sometimes referred to as the supplemental treaty of 1880, it was provided that we might limit, regulate, or suspend; and we promptly proceeded to suspend. Then in 1894, not satisfied with the treaty of 1880, which gave us that right of suspension, we agreed that as to immigration we should have the right to absolutely prohibit. Of necessity that was a substitute in that particular for the treaty of 1880, and all the other provisions on that subject are similar.

Mr. PATTERSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.

Mr. PATTERSON. We can readily gather from the treaty of 1868 that it is amendatory of the treaty of 1858; we can readily gather from the treaty of 1880 that it is amendatory of the treaty of 1868; but I ask the Senator to point out where in the treaty of 1894 there is a suggestion that it is anything but a separate and independent treaty, amendatory of nothing, supplemental to nothing, but a treaty permanently, or at least for a period of ten years, of exclusion of the Chinese; and in that individual case, why are not all the preexisting provisions in the treaties upon that subject set aside permanently? Can the Senator claim that when the treaty of 1894 ceases to exist any preexisting treaty will have effect so far as it relates to the subject of the treaty of 1894?

Mr. FORAKER. Mr. President, the Senator seems to proceed upon the theory that if a treaty be supplemental or additional it must say so on its face. That is not necessary. If the treaty in its nature is a further modification of something that has already

been treated about, it is supplemental.

It is true the treaty of 1894 does not say anything about what it is supplemental to, but in view of the fact that in 1880 we agreed that we might limit, regulate, or suspend, and then in 1894, treating on the same subject, that we might have a right for ten years thereafter to absolutely prohibit, it is my conclusion, and I have no difficulty in reaching it, that the treaty of 1894 takes the place on this subject of immigration of the treaty of 1880, and it stands there as the law, the supreme law, of the land, that even a Treasury official has no right to violate.

It stands there, Mr. President, until it expires by limitation. When does it expire? At the end of ten years if either party may see fit to denounce it; otherwise it will go on for twenty years; and at the end of twenty years it ceases to be the supreme law of the land, and the treaty of 1880, without doubt, and pos-

sibly the treaty of 1868, will then recur.

Mr. PATTERSON. Mr. President—
The PRESIDING OFFICER. Does the Senator from Ohio

yield to the Senator from Colorado?

Mr. FORAKER. Yes; but I hope the Senator will not ask that same question again. [Laughter.]
Mr. PATTERSON. I should be fully justified in asking it

again, but I do not propose to do so.

Mr. FORAKER. I submit, Mr. President, that the Senator would not be justified in asking it again, for I have answered that question, not only three times in direct response to a specific question, but I answered it in the beginning of my remarks before the Senator asked it. I know, however, the Senator is in good faith about it, and I am glad to have him ask any question he thinks proper. I only desire to make progress with my remarks.

Mr. PATTERSON. I recall to the Senator from Ohio that on Saturday last he declared interruptions to be the very heart of

debate and that he was always ready to yield to them.

Mr. FORAKER. But I added a qualification, Mr. President, if the Senator will allow me. I said when the interruptions were intended to expedite the elucidation of a proposition.

Mr. PATTERSON. That is exactly what I am now engaged in doing to the best of my ability.

Mr. FORAKER. Well, have I not elucidated one of them? Mr. PATTERSON. If I am obtuse, it is my fault.

Mr. FORAKER. Oh, no; the Senator is not obtuse. The trouble with the Senator is that he is very astute.

Mr. PETTUS. Mr. President, I rise to a question of order. The PRESIDING OFFICER. The Senator from Alabama will

state his point of order.

Mr. PETTUS. My point of order is that this conversation on

the floor is expressly against the rules of the Senate.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. PATTERSON. Mr. President-

The PRESIDING OFFICER. Does the Senator from Ohio

Mr. FORAKER. I yield.

Mr. PATTERSON. Will the Senator from Ohio state to the Senate whether he distinguishes between the force and effect of a later statute upon a previous statute with which the later statute is in conflict, and the force and effect of a later treaty upon a previous treaty with which the later treaty is in conflict and in which later treaty there is no suggestion that it is either supplementary to or amendatory of a preexisting treaty?

Mr. FORAKER. Mr. President, answering the Senator from Colorado, there is no distinction between the effect of a subsequent treaty not in harmony with a previous treaty and that of a subsequent statute inconsistent with a previous statute. The latest expression of the legislative will always governs, and in the case

of a treaty the latest treaty always governs.

It is true the treaty of 1894 does not say that it is supplemental, but when a previous treaty said we might suspend or limit or regulate this immigration, and after a few years, I will say, of experiment, we said "we have concluded that we want to absolutely prohibit," and we agreed to prohibit, I say the last is a substitute for the former, but the time of its life is prescribed in it, and the life of it is ten years, except only on the condition named, when it will be twenty years.

That being true, let us inquire what difference it makes. Here is the treaty of 1894. It does not make any difference whether it is supplemental or additional, or whether it is absolutely independent. In a certain sense every treaty is independent of every

other treaty.

Mr. President, let us see what point there is. I can not see, with all respect to my friend from Colorado [Mr. Patterson], how there is any serious point involved in what he has been trying to impress upon me, for the fact remains, looking alone to the treaty of 1894 as containing all the law, although it does not, for I have already pointed out that there is a part of the treaty of 1858 applicable, a part of the treaty of 1880 applicable, and now a part of this treaty applicable, but, looking to this as all the law—I was about to say all the treaty—applicable to the subject, what difference does it make whether this is absolutely independent of all other treaties or only supplemental?

It is a substitute for the time being for something we had before agreed upon. The question is, What does this provide? It provides as follows—I have already read it—that the United States may under this treaty "absolutely prohibit laborers"—not a suggestion that anybody else is to be prohibited—"may prohibit laborers." Nobody complains of that. We are all agreed that,

according to this treaty, Chinese laborers may be prohibited from coming to this country by a statute. Then in article 3 the treaty provides:

The provisions of this convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein.

That is the point I want to make particularly emphatic.

To entitle such Chinese subjects as are above described to admission into the United States, they may-

The commissioners who represented us dealt with Do what? that subject. They determined upon what kind of terms and conditions people who were not laborers might come into the United States, and they wrote it in this treaty, which is the supreme law of the land, unless the Secretary of the Treasury or the Superintendent of the Bureau of Immigration has the power to undo it and override it.

To entitle such Chinese subjects as are above described to admission into the United States, they may produce a certificate from their Government or the Government where they last resided, viséed by the diplomatic or consular representative of the United States in the country or port whence they

That being our treaty stipulation, I say that whenever a man who belongs to any class not a laborer comes to one of our ports with a certificate from his government, viséed by our consular representative in China, he has a right to admission without any more ado about it, and no Congress—unless we want to violate and disregard our treaty obligations which, of course, we have the power to do-not even the Congress, unless we want to do that, certainly no Treasury official, has a right, in the name of

making regulations, to disregard and override it.

Why, Mr. President, the whole country is familiar with the attitude of the United States with respect to our treaty obligations. It is only a few years ago now—I do not remember just how long—since we had a case that every Senator must well remember. A question arose between this Government and the Government of Great Britain in regard to the extradition of the forger Winslow. We had a treaty—the treaty of 1842 with Great Britain, under which forgery was made an extraditable offense. Winslow committed forgery in this country, fled to Great Britain, and took refuge there. We sent a requisition for him.

The British Government declined to extradite him upon our request unless we would give assurance that we did not mean to prosecute him for any other offense than that charged against him in the requisition, which was forgery. What did this Government say? This Government said: "It is not so written in the treaty, and we will not give you any such assurance; you have no right to ask anything beyond the provisions of the treaty. Forgery is an extraditable offense; this man is charged with it; we have a right under the treaty to take him, and we deny the right

of Great Britain to add one iota to this convention.

Then Great Britain turned Mr. Winslow loose, and then President Grant, I believe it was, who was President at that time, sent a message to the Senate of the United States reciting the case and asking the Senate or Congress—the Senate, I believe it was, though I have not been able to look at this matter recently, but I remember it well—to at once suspend all our extradition treaties and proceedings with Great Britain and not to honor any requisition coming to this country from Great Britain until Great Britain agreed to abide by her treaty with us. Great Britain for a time held out, but finally yielded, and rearrested Mr. Winslow, who was then sent here without any conditions being attached.

That, Mr. President, is the way we deal when we come to deal with such powers as Great Britain; that is the way we ought to deal with China, and that is the way she ought to deal with us,

and the way China would deal with us if she could.

Senators have been saying upon the floor in the progress of this debate that China has been acquiescing in our action respecting her subjects. China has not acquiesced in any of it from the very moment when we first undertook to legislate, attaching definitions to these terms of "merchant," "student," etc., and undertook to adopt regulations restricting their rights as guaranteed by these treaties: but China, on the contrary, at once commenced to protest, and the history of our foreign relations is full of protests, one after another, under every Administration we have had since this trouble commenced, made by their ministers against such legislationprotests made by direction of their Government, pointing out what the treaty stipulations were as to any teacher, any student, any merchant, any traveler who may come into this country, and denying the right of any official of the United States to add to that requirement. Is not the Chinese Government right about it?

Why, sir, there is not a precedent in the history of our diplomacy to the contrary, not one, nor could there be; and, Mr. President, with no other Government with which we have treaty relations, excepting only China, would we think of such a thing as giving to an official in charge of the Bureau of Immigration power to adopt any kind of regulation, no matter how violative of our treaty obligations, that might occur to him as appropriate, which would make it more and more difficult, until it became

impossible, for any Chinaman to get into this country.

Mr. HOAR. With the permission of the Senator from Ohio, I will remind him of another illustration, the Fortune Bay incident, where the local authorities undertook to enforce sundry regulations against our fishermen.

Mr. FORAKER. Just the same. But the Senator will pardon me for not dwelling longer upon that. I have already occupied so much more time than I intended that I want to hurry to a

close. Besides, one illustration is sufficient.

The point I am making. Mr. President, is that according to these treaties—and I am now dealing with the last one, that of 1894—you can not find a word which excludes anybody, except only a laborer, unless upon the principle expressio unius est exclusio alterius; and that principle does not apply, because the text makes it manifest, and surely the context does if the text does not, that the enumerated classes are used only for purposes of illustration. It was never dreamed of or thought of by anybody that when we were providing that teachers and students might come into this country we were excluding all other educated and professional people. They are desirable in this country.

I asked some one the other day during the progress of this debate whether or not a single instance has ever occurred in which any harm has come to the American people or to any class of the American people on account of any of the educated classes of China not being debarred from coming into this country. Nobody has pointed out any such case. We are all agreed that the laborers should be kept out. We have agreed to that by our treaty stipulations, but also that everybody else should come in. I am not going to support any legislation that takes away that right, in the first place, because it is a violation of our treaty obligations; and, in the second place, because it inaugurates an unwise policy.

Now, let me pass to the legislation on this subject. I have undertaken to show what was the nature and the effect of the treaty of 1880, and I have undertaken to show, by quoting from the Supreme Court decisions and from Mr. Carlisle and Mr. Hamlin, what the courts and what the Treasury officials down to 1896 construed these treaties to mean, and that they were construed by these officers and courts to mean just what I have been con-

tending for.

Mr. President, following the treaty of 1880 came first the act of May 6, 1882, and I call the attention of the Senators having this bill in charge to the fact that when they come to section 6—I do not care for the other provisions of the law having reference only to laborers—that when they come to section 6, where they deal with persons other than laborers, they provide simply that for the purposes of identification a person not a laborer shall be allowed to enter when he comes with his certificate viséed properly just as the treaty provided. So the Congress of the United States, in the act of 1882, enacted immediately after the adoption of the treaty of 1880, so interpreted the treaty.

There is much more in that statute which, under other circumstances, I might call attention to in answer to some of the suggestions in this debate, but I hurry through it, coming next to the act of 1884, which was the next legislation on the subject. This was an act amending the act of 1882. The amendments are not very material, except only as making new conditions and provisions more drastic, but there is not enough difference to justify

my stopping to speak of them in detail.

What I want to call attention to is that by this act of 1884, for the first time, was a definition of any of its terms attempted. Never by any Treasury official, never by any law officer of the Government, never by Congress, never by anybody had it been pretended that such a word as "merchant," "student," "teacher." or "traveler" needed a statutory definition—never until then. In this act it is provided:

If the person so applying for a certificate shall be a merchant, said certificate shall, in addition to above requirements, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application as aforesaid: Provided, That nothing in this act nor in said treaty shall be construed as embracing within the meaning of the word "merchant" hucksters, peddlers, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation.

That is the first definition ever attempted, and then the trouble commenced. Immediately upon the enactment of that provision, the Chinese Government commenced to expostulate, to protest, to say our treaty provides thus and so, and by legislative enactment you are adding to the requirements. In the treaty it was stated that every merchant could come freely of his own will and accord into the United States, and that the only credential that he needed to produce to enable him to come was a certificate from the Chinese Government identifying him as a merchant, and that certificate viséed by our consular representative.

Mr. MITCHELL. May I ask the Senator a question?

The PRESIDING OFFICER (Mr. Beveridge in the chair). Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Certainly. Mr. MITCHELL. That act, of course, was passed several years prior to the treaty of 1894.

Mr. FORAKER. Certainly it was.

Mr. MITCHELL. Now, is it not a fact that, by reason of every rule of construction and common sense as well, China, when she entered into a solemn treaty while that statute was on the statute

book, assented to that very construction?

Mr. FORAKER. No. Mr. President; I will show you—and that is what I am reading this for-what China accepted and what China did not accept. China entered her protest against this. The archives of this Government are full of communications on this subject, one after another-

Mr. MITCHELL. Is there anything in any treaty regard-

Mr. FORAKER. Protesting against these definitions and against these drastic measures intended to make it impossible for those people to come into this country as we had stipulated. That was the first, and that is the only reason I have referred to it.

Following that the act of 1888 was passed: then the act of October 1, 1888, was passed; then the act of May 5, 1892, was passed; then the act of November 3, 1893, was passed; and then came the treaty of 1894, and what did it provide on this subject? The Senator from Oregon asked me to state whether or not this legislation, having been passed prior to the treaty of 1894, China was not bound by the agreement of that convention to accept this statutory definition. No, I answer him; and the treaty on its face so shows.

Mr. MITCHELL. The statement I made was not that China,

as a matter of fact, was bound to do it-

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Let me answer the question, and then I will

yield to the Senator.

I did not state that China was bound to do Mr. MITCHELL. it. China was not bound to do anything except that which she agreed to do voluntarily. What I mean to say is that China entered into a solemn treaty on the 8th of December, 1894, when this statute, which the Senator from Ohio has read, was on the statute books, defining what the word "merchant" meant; and, without any insertion in that treaty to the contrary, she made the treaty. I say she, by doing that, accepted the definition placed there by every rule of construction and common sense.

Mr. FORAKER. Mr. President, by every rule of construction, in view of what is said in this treaty, she did not do any such thing. That is what I want to point out. In the act of 1884 not only was this definition found, but also the requirement under section 6 for registration. China objected to the registration, to this definition, and to all these other conditions and requirements that exceeded the provisions of the treaty. She claimed that they

were unwarranted.

Now, that provision for registration was upon the statute books, and what was done with respect to it in this treaty of 1894, which was intended to be a meeting and an agreement between the sovereign powers, by their duly accredited commissioners represented, that would put at rest all these points of difference? That was what was intended to be done, and that is what the record of that convention shows they undertook to do, and what everybody supposed they were doing. What was done? All these acts were under review. The Chinese Government would not agree to any provision of them—and the record shows it—except only the agreement in regard to registration. Now, let me quote what it is:

The Government of the United States, having by an act of the Congress, approved May 5, 1892, as amended by an act approved November 3, 1893, required all Chinese laborers lawfully within the limits of the United States before the passage of the first-named act to be registered as in said acts provided, with a view of affording them better protection, the Chinese Government will not object to the enforcement of such acts; and reciprocally the Government of the United States recognizes the right of the Government of China to enact and enforce similar laws or regulations for the registration, free of charge, of all laborers, skilled or unskilled (not merchants as defined by said acts of Congress), citizens of the United States in China, whether residing within or without the treaty ports.

Mr. President, the record of the convention at which that treaty was negotiated and was agreed upon shows that all these points of objection were under consideration, and that China agreed to waive her objection to registration, for the reason in that treaty mentioned, but did not waive her objection to anything else; and every official of this Government, until after 1896, so construed that treaty. In other words, at that time, working out all that had preceded in the way of treaties and statutes on this subject, they agreed as to what? That Chinese laborers should be absolutely prohibited from coming to this country and all other classes should be allowed to come in whenever they presented a certificate signed by their Government and viséed by our consular representative.

Mr. LODGE. Mr. President, may I ask the Senator a question,

while he is on that point, if he will allow me?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. FORAKER. Certainly.

Mr. LODGE. Do I understand the Senator to say that the clause in the law of 1884 which the Senator has read was the first attempt at definition?

Mr. FORAKER. Yes.

Mr. LODGE. Do I understand him to say that that was in violation of the then existing treaties?

Mr. FORAKER. Yes, sir: I do.

Mr. LODGE. I agree with him. I think it was.

Mr. FORAKER. Absolutely in violation—

Mr. LODGE. In violation of the then existing treaties?

Mr. FORAKER. Yes.

Mr. LODGE. Does he think it is in violation of the treaty of 1894?

Mr. FORAKER. Unquestionably it is, because the provision of the treaty of 1894 is precisely the same in that respect as that of 1880.

Mr. LODGE. Precisely. Then the existing law upon the statute book is in violation of the treaty of 1894?

Mr. FORAKER. It is.

Mr. LODGE. Then we ought to repeal it.

Mr. FORAKER. Certainly we ought to repeal it, and that is what I am coming to, and that is what I am contending for.

Mr. LODGE. But the substitute of the Senator from Con-

necticut extends it in whole.

Mr. FORAKER. Yes; that is true.

Mr. LODGE. It extends it; it does not repeal it.

Mr. FORAKER. Undoubtedly. I think it is in violation of the treaties, just as this proposed statute is in violation of it.

The PRESIDING OFFICER. The Chair suggests to Senators that when they desire to interrupt they must address the Chair,

according to the rules of the Senate.

Mr. FÖRAKER. But here is a choice between two evils. I am coming now to speak of the very matter the Senator has in mind. The continuance of the existing law is far less objectionable than to enact into law a statute that embodies in the way of codification and compilation all these unwarranted and obnoxious

rulings of the Treasury Department.

So long as it is only the Treasury Department proceeding under general authority of statute and enacting this, that, and the other provision, prohibitory, for that is all it is, we have no responsibility except only in the sense that we do not act to right a wrong, but when we deliberately take up those regulations and make them the law of the land we indorse and approve and put into operation all that the Treasury, without any warrant or authority, has done.

I have been undertaking to show, and if I have talked to any purpose I have shown, that we have the right under our treaty stipulations with China to prohibit laborers and nobody else. Every other class has the right to come in, and every other class has the right to come in, and every other class has the right to come in in accordance with the terms and provisions and conditions of the treaty of 1894. That treaty provides that any man who belongs to any one of the classes entitled to come in shall be given admission to this country whenever he produces the certificate of his own Government, viséed by our representative. That being true and the term "laborers," as used in the treaty, having application to nobody else except only laborers, I take exception to certain provisions of this bill, which at last, after so many interruptions, I am happy to realize I have reached.

The first section prohibits laborers. That we will pass by. It is all right. For the present I pass by that section which relates to the Philippines and other insular possessions. I come, therefore, to section 3. Now, this is the first time we have had a definition of the term "laborer," except only heretofore it has been said the term "laborer" should apply to skilled as well as unskilled laborer. Now, we have this provision in the pending bill:

That the term "laborer" used in this act shall be construed to mean both skilled and unskilled manual laborers, Chinese persons employed in mining, fishing, huckstering, peddling, or laundry work, and those engaged in taking, drying, or otherwise preserving shellfish or other fish for home consumption or exportation.

I suppose we have a right to make that kind of a definition. I am not going to quarrel with it here, although I think I might with propriety say a good deal in criticism of it as not being warranted by the convention. I pass it by for what is more important.

Mr. PENROSE. That is almost a verbatim copy of the act of

1893. It is the existing law. There is nothing new in it.

Mr. FORAKER. Certainly. I have already called attention to the fact that the act of 1893 was in violation of the treaty then in existence and one of the precipitating causes of the treaty of 1894, and in the treaty of 1894 we did not adopt any of the objectionable features—I mean objectionable to China—except only the provision of our law in regard to registration. I say by the treaty of 1894 we effaced all that. Is this a part of any law? Let me read:

And every Chinese person shall be deemed a laborer, within the meaning of this act, who is not an official, a teacher, a student, a merchant, or a traveler for curiosity or pleasure, as hereinafter defined.

Now, look at that. That is buttoning it up double-breasted. What is the first part of the definition if the last is to be incorporated into this statute and made a law? If every person is a laborer who is not a merchant, teacher, student, or traveler for curiosity or pleasure, that would seem to be sufficient, and we need not bother about huckstering and catching fish, live or dead, dry-

ing them, or otherwise.

Now, what is the purpose of all that? We have a convention under which we can prohibit laborers, and under which everybody else is entitled to come into this country. By this bill they are seeking to have the Congress of the United States say that not only laborers shall be kept out, but that everybody else shall be kept out who does not belong to some one of the five enumerated classes. Publicists shall be kept out, physicians shall be kept out, theologians shall be kept out, philosophers, statesmen, everybody, capitalists, bankers, brokers, civil engineers—every such man shall be debarred the right to come into this country, although by treaty stipulation he has that right.

That is not all. I said it is proposed to make it double-breasted, first defining what is a laborer, and then that all these other people shall be kept out, which is repeating the same definition. Now, next they have devoted a whole section to the subject—

Mr. PENROSE. I do not want to interrupt the Senator's very

interesting remarks, and I shall not hereafter—

Mr. FORAKER. I shall be very much obliged to the Senator

if he will interrupt me at his pleasure.

Mr. PENROSE. In order to set this matter right, once for all, I will state that the provisions of the bill with respect to the exempt classes depart hardly one word from the existing law and practice, and the matter in the bill which the Senator is criticising as being an improper definition of the word "laborer" is in compliance with the decision of the district court in Ah Fawn, 57 Federal Reporter, page 591, to be found on page 153 of the testimony.

Mr. FORAKER. The 57 Federal Reporter is not very modern.

Mr. PENROSE. I do not know-

Mr. FORAKER. And in view of the authorities I have cited it is not good law, for subsequent and long subsequent to any decision that can be found in 57 Federal Reporter, the Supreme Court of the United States told us who had a right to come and who did not have a right to come.

Mr. PENROSE. In that case it was laid down distinctly as a principle that all who were not in the exempted classes were la-

borers.

Mr. FORAKER. Yes; but have I not called the attention of the Senate to decisions of the Supreme Court subsequent to that decision which holds that only laborers are excluded and that everybody else has a right to come. What is the use of citing 57 Federal Reporter? It is like somebody said the other day in telling a story of a man who was gathering up last year's calendars. He was asked, "What are you going to do with them." He said he was getting ready to sell them in Philadelphia. [Laughter.]

Following after those definitions comes this section, to which I

wish to call attention:

SEC. 4. That from and after the passage of this act the privilege of Chinese persons other than laborers to enter or remain in the United States shall be restricted to officials, teachers, students, merchants, and travelers for curiosity or pleasure, as hereinafter defined.

Here, then, we have three definitions, each of which I have read separately, following one after the other, defining the word "laborer" in such a way as to make it apply to every class of people in China except only the teachers and students and merchants and travelers and the officials. Now, I have already contended, and I do not want to spend more time upon it, that the five classes are not the only classes, but that all who are not laborers are entitled to come in.

Now, evidently down to that point I am warranted in the statement I made a while ago that it was the purpose of this bill not only to keep out laborers, but everybody else. Stopping at this point, they would unquestionably keep out every laborer and every man of any other class who is not a student, teacher, merchant, or traveler, or an official, and that, I contend, I have shown is unwarranted. Let us look at the definition of these classes,

SEC. 6. The term "teacher"-

Did anybody ever think it necessary to define by statutory enactment what our commissioners meant when they said teachers should be allowed to come in? Why was that language employed? I have shown—simply illustrative—

Sec. 6. That the term "teacher," used in this act, shall be construed to mean only one who, for not less than two years next preceding his application for entry into the United States, has been continuously engaged in giving instruction in the higher branches of education—

Teaching Greek, and Latin, and astronomy, I suppose, and calculus—

and who proves to the satisfaction of the appropriate Treasury officer-

Who, of course, would know all about it; those who preside at the ports of entry and lock up the Chinese in a loft for weeks and months at a time until it suits their pleasure to release them, as the testimony shows—

and who proves to the satisfaction of the appropriate Treasury officer that he is qualified to teach such higher branches and has completed arrangements to teach in a recognized institution of learning in the United States and intends to pursue no other occupation than teaching while in the United States.

Now, let us analyze that. In the first place the treaty says that any man who is a teacher shall have free entry into this country whenever he comes with a certificate from his own Government, viséed by our consul or diplomatic representative in China. That is the only condition. China had a right to answer us, and did answer us, when we undertook to legislate these Treasury regulations upon that provision, just as we answered Great Britain when she asked us to give assurance, before she would surrender

a fugitive to be extradited, that we would not try him for any other charge than that named in the requisition—China had a

right to answer that it was not so written in the treaty.

She had a right to say, "Our teachers are entitled to free entrance"—and they are. Mr. President, they are entitled, under the treaty of 1858, to come into this country for the purpose of establishing and maintaining institutions of learning. They are entitled to come here under the provisions of the treaty of 1868, to which I called attention, whereby Americans are authorized to employ scholars, or "any people," to use the language of the treaty, "from any part of China, to assist in literary labors."

They are entitled to come in under that provision, and now they are entitled to come into this country under the treaty of 1894 whenever they present the proper certificates properly viséed. But when they present it our representative at San Francisco says: "Have you been teaching for two years next preceding your coming?" Suppose he had not been. Suppose he had been teaching all his life, had no other business, but for two years or even five years had been retired from the active prosecution of his profession and had taken a notion, using what money he had accumulated as a teacher, to travel abroad and see something of the world and come to the United States.

World and come to the United States.

He does not have to come to become here a teacher. If he be a teacher he has the right to come. We did not say a teacher might come if he wanted to teach school here. We did not say a teacher might come if he could teach Latin and Greek and had perfected arrangements to teach in some one of our institutions. We said, "if you are a teacher you can come in." It was our tribute to education. It did not occur to anybody that the coming of a Chinese teacher into this country would hurt labor, or hurt our institutions, or hurt our body politic, or hurt anything else.

Therefore we were content to say any teacher may come in. But, no, he must prove that he has been continuously engaged for

two years not only in teaching, but listen to this:

And who proves to the satisfaction of the appropriate Treasury officer that he is qualified to teach such higher branches and has completed arrangements—

That he has done it in advance—

to teach in a recognized institution of learning in the United States and intends to pursue no other occupation than teaching while in the United States.

I say it is impracticable for such a provision as that to work in the way the treaty intended, and when this came up in a colloquy here a few days ago, we were told by some Senator in the course of the colloquy that no teachers have applied and none are going to apply. Of course they are not going to apply if that is the provision, for what teacher in China can perfect arrangements to teach the higher branches in one of the great institutions of this country until he has had a chance to come here and consult with the faculty and the employing power?

The treaty does not impose any such restriction. The treaty is broad and unrestricted in its relation to that matter. Any man who is a teacher can come, and he does not have to teach at all while he is here, and he can stay here as long as he wants to.

The treaty of 1894 says these classes shall have the privilege of coming at their free will and accord and of residing here in the United States, and we are proposing to take that right away from

them. At least, in regard to students. Let me read that definition:

SEC. 7. That the term "student," used in this act, shall be construed to mean only one who intends to pursue some of the higher branches of study—

He can not pursue any but the higher branches of study-

Mr. PLATT of Connecticut. He can not come to learn the English language.

Mr. FORAKER. No-

or to be fitted for some particular profession or occupation for which facilities for study are not afforded in the foreign country or the territory of the United States whence he comes, and for whose support while studying sufficient provision has been made, and who intends to depart from the territory of the United States immediately on the completion of his studies.

Let me read in this connection the provision of the treaty of 1894:

The provisions of this convention shall not affect the right at present enjoyed of Chinese subjects being officials, teachers, stude its, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein.

That is what the treaty says, and yet we are told that this bill is framed in exact consistency with the treaty stipulations.

Mr. QUARLES. Mr. President—
The PRESIDING OFFICER (Mr. Kean in the chair). Does the Senator from Ohio yield to the Senator from Wisconsin?

Mr. FORAKER. Certainly.

Mr. QUARLES. I should like to inquire if the Senator's attention has been called to the new departure in Chinese policy just now announced?

Mr. FORAKER. Yes. I have a memorandum of it, and I am going to speak of it in a moment. I am obliged to the Senator from Wisconsin for calling my attention to it, and if I undertake to sit down without doing so, I will be gratified if he will remind me.
Mr. QUARLES. I will suggest to my distinguished friend

whether every one of the Chinese youths educated in our high schools and colleges will not be an advance agent for American trade and civilization?

Mr. FORAKER. I am coming to that as soon as I can get to

Perhaps I might just as well speak of it here.

In the Outlook, the one just issued, I find an article which I desire to read. This is the Outlook of April 12, the one that came last Saturday. I will read it in this connection. No teacher, no student, can come unless he is going to study the higher branches and unless he is going to depart the minute he gets through. I am obliged to the Senator from Wisconsin for calling my attention to this. I cut it out and brought it here intending to use it in another connection, but I will put it in here now for fear I forget it.

EDUCATION IN CHINA.

No more significant sign of progress has appeared within the past six months than the edicts issued in Pekin providing for the establishing of schools throughout the Chinese Empire, and ordering viceroys and governors of provinces to select and send students abroad. The first edict declares (1) that the Imperial University at Pekin "must be put in thorough order;" (2) that all viceroys and governors shall convert the schools at their provincial capitals into a college, one for each capitals (3) that "each prefecture (including five to ten counties), subprefecture, and independent department shall establish an intermediate school," and that (4) "each department and district a lower grade school, with (5) numerous primary schools."

The curricula of these schools include the usual Chinese classics, to which are added history, the science of Chinese and foreign governments, and in-

dustrial science. Thus, in the words of the edict, "a foundation will be laid to secure men equipped for the duties of government." These edicts also mean that there will be a call for a large number of foreign educators who can speak Chinese to open the colleges, intermediate, lower grade, and primary schools, and also to train native teachers in the new learning in every

many schools, and also to train native teachers in the new learning in every province of the Empire.

Through its organization of 8 viceroys, 16 governors, and 2,000 civil officials the Chinese Government rules its 400,000,000 people. Each mandarin, therefore, controls on an average of 200,000 souls. The central Government seems finally to have grasped the fact that the chief need for China at present is education of which the first field to be considered is elementary education for the masses. The pedantry which has hitherto characterized Chinese home learning is likely to give place to progressive scholarship, and a new era may begin in China.

Then comes another article, immediately following, entitled "Chinese students abroad," and to this I invite the careful attention of every Senator who is asked to vote for this definition which I have just read, found in the pending bill:

#### CHINESE STUDENTS ABROAD.

Equally necessary is education of the Chinese students abroad. The world must inform China. All civilized peoples have recognized this. It is a satisfaction that the Chinese Government now recognizes it. Its edict calls upon the viceroys and governors to select young men "of mental gifts, upright character, literary talents, and general knowledge of affairs, who shall go abroad thoroughly to educate themselves, particularly in the specialized branches of industrial science.

Let them acquire a thorough mastery of some profession. \*\*\* \*\* When

Let them acquire a thorough mastery of some profession. \* \* \* \* When their education shall have been completed \* \* \* and they shall have returned to China, let the viceroys and governors and literary chancellors of the provinces concerned at once divide them into classes, according to the courses of study which they may have pursued, and examine them. If their knowledge shall really correspond with the statements made in their diplomas, the authorities mentioned shall issue a document certifying the same and send it with the student to the board of foreign affairs, which, after further examination, shall select the most worthy and memorializer, except ther examination, shall select the most worthy and memorialize us, requesting honors to be conferred on them.

As to the expenses attendant upon such travel and study, let each province arrange some satisfactory method of paying the same and it will be permitted to enter the item under the head of "Government expenditure." If those Chinese who go abroad to study at their own expense and report to the Chinese minister in the country visited obtain "first-class diplomas," they may be permitted on their return to China to enter the examinations on the same terms as the students who have been sent abroad by the Government. Thus a quarter of the human race is taking a new departure.

After the ominous darkness which has hung for centuries over the Chinese

a quarter of the numan race is taking a new departure.

After the ominous darkness which has hung for centuries over the Chinese
Empire, this is a ray of light. As we learn from "China's Only Hope," by
Chang Chi Tung (perhaps the most enlightened of Chinese viceroys), there
is pathetic necessity for the second edict. The majority of the mandarins in
power are still unaware of the very nature of the problems which must be
solved in China, not to mention their ignorance of the methods necessary to
their solution. The only hope of progress is in laying all civilizations under
tribute educationally, and this the Imperial Government has now wisely

So it is that it is matter for us seriously to take into consideration that we are asked to enact this legislation by which we bar out all students, for it has no other effect, and could not have any other effect, in a practical way, and never was intended to have any other effect, and just at the time when we are asked to enact such legislation China is making provision to send students abroad.

Where? To the United States? No: not here, where we are

seeking to exclude them and subject them to all kinds of humiliating and annoying conditions of entrance, but they will send them to Germany, to Russia, to France, to England, and to the other countries of the world, and there they will learn their ways, they will become affiliated with them, and when they go back to China it will be to report the excellence of those institutions, to introduce their merchandise, and to give to those people advantages in trade and commerce.

I do not think a more unwise, impolitic, and, considering our treaty obligations, a more violative provision has been submitted to the Senate of the United States since I have been a member of it than is this bill. I will not vote for any such measure, and if the Secretary of the Treasury undertakes to make any such regulation he does it without any warrant or authority of law, and he

ought to be removed from his office for it.

That it is in violation of the treaty no man can question. Every Senator here so admits. Why, then, do we seek to enact it? Are we to suffer any injury from having Chinese students come here? From having teachers come here? From having merchants come here? What becomes of the provision in the treaty of 1858, and still in force, that the Chinese may establish and maintain educational institutions in this country, if no teacher can come except only to teach the higher branches in some institution of learning already established and recognized as such in this country?

Now, I have said as to teachers and as to students probably all that it is necessary I should say. I only want to indicate why, in my opinion, the provisions with respect to them both, the definitions and the requirements they are subjected to, as to certificates and proof of their condition, are all violative of the treaty. The treaty itself prescribes the terms on which they shall come

and what credentials shall be sufficient.

Now, we come to the term "merchant." I do not want to dwell upon that. The bill says:

SEC. 8. That the term "merchant," used in this act, shall be construed to mean only one who is engaged in buying and selling merchandise, at a fixed place of business, and who, during the time he claims to be a merchant, does not engage in the performance of any manual labor, except such as is necessity.

not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant.

And where an application is made by a Chinese person for entry into the United States as one formerly or at the time engaged in China as a merchant, or in some other foreign country as a merchant, or where such application calls for entry into one portion of the United States from another portion thereof, then, as a prerequisite to entry, the applicant must have been en aged as a merchant for at least one year next preceding his application; and it must appear to the satisfaction of the appropriate Treasury officer at the port of entry that he comes to exercise in good faith his calling as a merchant, and that calling exclusively, and that he has the means under his immediate control for forthwith becoming, and has completed the arrangements for forthwith becoming, the owner, in whole or in part, of a good-faith mercantile business in the United States, or any portion of the territory thereof.

That is as far as I have patience to read.

The treaty provides that any man who is a merchant coming to our shores with a certificate to that effect from his Government properly viséed shall have a right to come in. and yet we proceed by legislation, adopting Treasury regulations that nobody ever had any authority to adopt, to so legislate that in addition to that he must show that he has money enough to conduct a business, that he has had certain experience in business, that he has already completed arrangements for engaging in business. and what the nature of it is, and all that. Do you think if we were to go to China under such a treaty provision to let Chinamen come here and they were to undertake to exact such conditions of our citizens we would stand it for a minute? Not one. Everybody knows we would not.

Now, Mr. President, I am not going to pursue that subject. Perhaps I had better call attention before leaving it to the definition given of a traveler. I supposed I knew what a traveler was. The commissioners who framed this treaty undoubtedly thought

they knew what was meant by a traveler. They did not think it necessary to define that term. They said that students, teachers, travelers, and merchants should have a right to come in. They contented themselves with that. They thought everybody would understand what was meant by that. But this bill, following some Treasury regulations and some legislation that had no warrant whatever under our treaty, proceeds to define a traveler as follows:

SEC. 9. That the term "traveler," used in this act, shall be construed to mean only one who shall establish to the satisfaction of the appropriate Treasury officer that he is in present possession of adequate funds for paying the cost of the intended travel within the territory of the United States and that his purpose in seeking entry is in good faith solely to travel for pleasure or curiosity, and who intends to depart from the territory into which he is permitted to pass promptly on the conclusion of such travel.

I do not want to dwell upon that, but will in a word repeat what I have said about it. Our commissioners said these classes, who were not laborers, should be allowed to come, enumerating certain classes for illustration. If a man be not a laborer he has a right to come, and the treaty prescribes on what condition; and we have no power or authority, without violating our treaty, to add one iota to the provision and condition named in the treaty. This Government would not allow England to do it, and we ought not to ask China to let us do it. The treaty says whenever a traveler or a teacher or a merchant or an official or a student shall come into this country with the certificate of his Government

viséed by our representative he shall be allowed to come.

Now, I say I am opposed to all these provisions in the bill that add to that requirement as being violative of our pledged obligation to China, and I do not want to vote for any measure that sanctions any addition to those treaty stipulations. I do not want to do it, because it is not necessary, if we want these exempted classes to come, if we are willing that they shall come, that we should annoy them in undertaking to bar out the laborer. I do not care how emphatically you exclude the laborer: I do not care how drastic, so they be not unreasonable, the provisions of your bill may be to enforce the exclusion of the classes to be excluded, but I do protest against imposing conditions upon classes that have a right to come under pretense that it is necessary to annoy them and debar them to keep out the laborer.

I think in continuing all the laws in force on the subject we of necessity, as I said a moment ago, must continue some objectionable provision of the statute: but I never would vote for it if I had the opportunity to deal with it anew. However, to do that is infinitely preferable to adopting this measure, which codifies and compiles and makes Congress responsible for every one of these Treasury regulations, all of which are without any warrant under

our treaty.

Now, Mr. President, there is another view to be taken of this matter. I have already said we are agreed the laborer is not desirable, but by our treaties we have said that other classes are at least permissible. We have agreed that they shall be so treated, that we shall allow them to come. I do not hesitate to say they are desirable. I do not know why anybody should object to a Chinese teacher, a Chinese student, a Chinese merchant, a Chinese traveler coming into this country. Why should we object?

It is said that under guise of being of that character and one of

that class they practice the fraud of bringing in the laborer. If so, it is not necessary to annoy the student and the teacher and the traveler in trying to keep out the laborer. Let us legislate drastically, if you see fit, to keep out the laborer, but let us keep our treaty stipulation, and honorably and consistently with the proud character and good name of this Government, let others come as to whom we have agreed they may come. Let us keep

our plighted faith.

The Senator from Wisconsin [Mr. Spooner] has called my attention to the fact that I said we have no power to do what is proposed, suggesting that what I must have meant was that we have no moral power. That is true. I thank him for making the suggestion to me, but I think I would have been so understood anyway, for earlier in my remarks I took occasion to say that notwithstanding this treaty, entered into by the President and the Senate, Congress has power to legislate in violation of it. But we do not want to legislate in violation of it, unless we are prepared to abrogate it, unless we are prepared to say so. I say that we are violating it and to that extent abrogating it in legislating in the way proposed, if we should so legislate as this bill proposes.

But, Mr. President, there is another view, and I wish to present it with a word, not undertaking to do justice to it by any means. That is the commercial side of this question which has been referred to. We have been told in the progress of this debate that the laboring interests of this country demand this kind of legislation. Mr. President, I have no doubt but that there are wage workers in this country who have that opinion, who conscientiously are of that belief, who imagine that every Chinaman who comes into this country, no matter whether he is a laborer or not, enters in some manner or other into prejudicial competition with him. But, sir, I deny that the interest of the wage worker can be subserved by legislating in violation of our treaty with China and in such a way as to cut off from this country the influx of the educated classes who are entitled to come.

We have reached in the progress of our development a point where we not only supply our home markets with what we manufacture and what we produce on our farms and out of our mines, but we have a great surplus to sell, which we must sell in the markets of the world. We have been looking across the Atlantic to Europe for markets, and we will continue to look there. But in Europe they will take from us only what little, in addition to what they can produce for themselves, they may want, and that

is not enough to exhaust our surplus.

We must look elsewhere, to the whole world—and particularly to the Far East, now that we have a base of operations in the Philippines—to China, Japan, Oceania, the Straits Settlements, and Southern India. They have there a thousand millions of people who are just beginning to learn that they want and must have—if they would keep pace, even in their own way, with the progress of the world—that which we produce, both to wear and to use and to eat.

In China, therefore, the greatest of all the countries to which I have referred, is the greatest opportunity for the development of a market that the world affords to-day. It has been said there are 400.000,000 Chinamen. You might just as well say there are 600,000.000. Nobody knows. It is all guesswork. There has

been no census, but nobody says there are less than 400,000,000 to 450,000,000 Chinamen. What is the trade of China? It is only a few years since she began to trade with the world. Already her foreign trade amounts to more than \$100,000,000, but out of it all, whatever it may be—and I do not want to go into figures and quote them—we sell there less than 10 per cent, I believe, of what she buys. Why should we sell to China only 10 per cent?

Mr. LODGE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio

yield to the Senator from Massachusetts?

Mr. FORAKER. Certainly.

Mr. LODGE. That is based upon direct imports to China. The exports to Hongkong, which of course all go into distribution in China. are classified under a different head, because it is British. The two together make about \$28,000,000.

Mr. FORAKER. Let it be \$28,000,000. What percentage is

that of the whole?

Mr. LODGE. It is large and will be greater.

Mr. FORAKER. What percentage is that of the whole?

Mr. LODGE. I do not know.

Mr. FORAKER. I have seen it stated that our total contribution is something like 10 per cent. The Senator from Vermont [Mr. DILLINGHAM] tells me that our total contribution amounts to only about one-tenth as much as Great Britain sells them. Whatever the facts may be, we all know that while our trade with China is growing, yet it is but in its infancy. We all know that we have just reached the point where we have a great surplus for which we are to find markets. There is no place in the world so inviting as China. We are to develop our trade there if we are wise.

In that behalf, Mr. President, with a diplomacy that is entitled to the highest eulogy, the Administration of William McKinley secured the assurance of an open door. What does that mean? It means that the United States is to be permitted to go into China on the same terms and conditions that every other nation goes there; that Russia, France, England, Germany are to have no advantage over us to be derived by rebates or exclusion or in any

other manner.

We are to have an open, free field, and that is all the American merchants ask. If we have a fair chance our merchants have the ability to do the balance. We have been looking forward with a just and laudable pride to the fact that our commerce with China, just now practically beginning to be important, is to grow with the years until it will not be \$28,000,000, as the Senator from Massachusetts says it is, but \$100,000,000, \$200,000,000, \$500,000,000 is

not at all an exaggerated expectation.

When was there a time in the history of this Republic when we so needed that market? The wage worker says, "Keep the Chinaman out: do not let him come here and stand by my side to compete with his cheap labor;" and we say, "Very well, we will keep him out." But while we are keeping the laborer out, while we have induced the Government of China to agree with us that he shall be kept out, we are not going to offend and insult the people of China and thus close in our face the door that President McKinley and Secretary Hay, with their wise diplomacy, opened wide for the American merchant and manufacturer and wage worker.

What does the wage worker want? He wants a market for this country in which we can sell the products that he manufactures.

I have no concern about how the wage workers of Ohio may regard this measure. They have good sense. I think the wage worker everywhere has good sense. A man can not work at a lathe unless he has brains. A man can not be a mechanic without having more ability than some people have who undertake to

I repeat that I have no concern, Mr. President, about the wageworkers of Ohio. They know that what they most desire is that the factories in which they work, the mills in which they are employed, may continue to run; that their employers may continue to have demand for the product which they are turning out. They know that if for any reason the market is taken away the mill must stop, and it does not avail them in such case that the Chinese laborer has been kept out, if through supreme folly in legislation we have closed the door and robbed ourselves of a market and at the same time robbed ourselves of the respect of the world, because we have violated our treaty obligation.

Therefore it is, for I do not want to pursue this matter, that standing here, representing in part the State to which I have referred, I insist that the legislation as proposed by the provisions

of this bill is legislation that we can not afford to enact.

What shall be done with it I have not stopped to study. I have supposed that those in charge of the bill and those who are making specific objections to it would probably be able to agree upon amendments that would remove from the measure its objection-

able features.

I was much pleased with what the junior Senator from Massachusetts [Mr. Lodge] said in that regard when he addressed us on Saturday. He said there were provisions in the bill which, although a member of the committee, he was dissatisfied with, and he spoke particularly of the seamen clause. I am not going to stop to dwell upon that. Enough has been said against it. have been trying simply, in a general way, to show, in the particulars I have mentioned, that the measure should not be en-

acted.

Mr. President, if the substitute offered by the Senator from Connecticut [Mr. PLATT] is adopted, I hope it will be with an amendment to the effect that only such regulations may be adopted and enforced by the Secretary of the Treasury as are not inconsistent with the treaties in force. Without that provision in it we will stand in the attitude, as it has been correctly suggested by Senators in favor of this bill, of continuing legislation to which we are taking exception. But that I would rather do, should this amendment be not added, than to adopt this bill, because here we take not simply that which has been legislated by the Congress, but also all the Treasury regulations, and that I can not agree to.

Mr. MITCHELL. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Oregon?

Mr. FORAKER. Certainly.

The Senator from Ohio, in the course of his Mr. MITCHELL. very able argument, because it has been able and interesting, referred to article third of the treaty of 1894, which provides what shall be done by one of the exempted classes in order to enable him to enter this country. It provides, after referring to the different classes of exempted persons; as follows:

To entitle such Chinese subjects as are above described to admission into the United States they may produce a certificate from their Government or the Government where they last resided viséed by the diplomatic or consular representative of the United States in the country or port whence they de-

Now, did the Senator from Ohio consider that provision in connection with section 6 of the act of 1884, which provides as fol-

That in order to the faithful execution of the provisions of this act, every Chinese person other than a laborer, who may be entitled by said treaty or this act to come within the United States, and who shall be about to come to the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign government of which at the time such Chinese person shall be a subject, in each case, to be evidenced by a certificate issued by such government, which certificate shall be in the English language, and shall show such permission, with the name of the permitted person in his or her proper signature, and which certificate shall state the individual, family, and tribal name in full, title, or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, when and where and how long pursued, and place of residence of the person to whom the certificate is issued, and that such person is entitled by this act to come within the United States.

If the person so applying for a certificate shall be a merchant, said certificate shall, in addition to the above requirements, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application as aforesaid— That in order to the faithful execution of the provisions of this act, every

time of his application as aforesaid-

And so on.

What I wish to get at is this: Does the Senator from Ohio hold that this provision in the third article of the treaty of 1894 abrogates and repeals this section of the treaty?

Mr. FORAKER. Unquestionably, Mr. President; and that is

what I asserted over and over again and argued for.

Mr. MITCHELL. I entirely agree with the Senator from Ohio. I think so.

Mr. FORAKER. Then let me answer your question.
Mr. MITCHELL. Then, Mr. President, I insist that the proposed amendment of the Senator from Connecticut will simply leave us without any legislation at all on the subject of the exempted classes, save and except the naked treaty of 1894.

Mr. FORAKER. And what I stand here to assert, and have spent more than two hours in contending for, is that we have no right to add to the treaty provisions in prescribing the conditions on which Chinamen shall be allowed to enter.

Mr. MITCHELL. The Senator is absolutely logical from his

standpoint, but where does it leave us?

Mr. FORAKER. I shall show the Senator where it leaves us, if he will allow me.

Mr. MITCHELL. Very well.

Mr. FORAKER. I called particular attention to that legislation: that it preceded the treaty of 1894: that as soon as that legislation was enacted the Chinese Government protested against it: that when our commissioners met with the commissioners of China to consider and negotiate and agree upon this treaty, all these questions came under consideration, and that the commissioners agreed that as to this legislation one point of objection should be waived, and China refused, as the record shows, to waive any other.

What was it China did? The Senator has read from a statute in which the requirement as to registration is found and in which

all these other requirements are found.

Mr. MITCHELL. That was retained by the treaty. Mr. FORAKER. Well, here is what the treaty said and what the Chinamen did. They said. "We will not overlook that requirement; you shall not add to the conditions with respect to entry into the United States, but we will overlook your statute in regard to registration;" and so they provided and agreed as follows:

The Government of the United States having by an act of the Congress, approved May 5, 1892, as amended by an act approved November 3 1893, required all Chinese laborers lawfully within the limits of the United States before the passage of the first-named act to be registered as in said acts proreided, with a view of affording them better protection, the Chinese Government will not object to the enforcement of such acts, and reciprocally the Government of the United States recognizes the right of the Government of China to enact and enforce similar laws or regulations, etc.

At the time when they agreed not to object to the enforcement of the law as to registration their protest was on file as to all these other conditions added to the treaty stipulation, and they were not only then protesting, but they have been protesting against them ever since as being provisions outside of and in violation of the treaty, and the Senator agrees with me that they are in violation of the treaty, and yet he stands here insisting that we shall adopt the Treasury regulations calculated to enforce this invalid provision—I mean invalid in the sense that it is in conflict with the treaty-

Mr. MITCHELL. The Senator misapprehends me, and misap-

prehends, I think, the point I wish to accentuate.

Mr. FORAKER. No. I am not misapprehensive of anything. I will be glad to have the Senator suggest anything. I know he is very much interested in this measure. I am glad to have the benefit of his suggestion. If I can answer where I differ with him. I shall be glad to do it. and if I can not answer, I shall be glad to say so.

Mr. MITCHELL. The point I wish to impress upon the Senator at this time is simply this: I will adopt the Senator's argument so far as he asserts that the third article of the treaty of 1894 repeals the sixth section of the act of 1884. I accept that as logical and correct. I believe the treaty does repeal the sixth

section of that act-

Mr. FORAKER. It does not as to registration.

Mr. MITCHELL. Not as to registration, of course. That being so, if we should adopt the Platt amendment, I say all it does in reference to the exempted classes is to leave them precisely where they stand in the treaty, and nothing more.

Mr. FORAKER. That is exactly what I have been standing

here contending it would do.

Mr. MITCHELL. That is right.
Mr. FORAKER. Why should we not leave it where the treaty leaves it? Why should we by legislation undertake to add to the treaty something that the treaty did not provide? The treaty dealt with this subject.

Mr. SPOONER. We must either leave the treaty as it is or

abrogate it.

Mr. FORAKER. As the Senator from Wisconsin well suggests, we must either leave the treaty as it is or else abrogate it. Of course you have the power, so far as the naked power is concerned, to legislate inconsistently with the treaty, but that would be an abrogation of the treaty.

Mr. MITCHELL. All we propose to do is to legislate within

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the provisions of the treaty. We do not propose to abrogate any

provision of the treaty

There is where we differ. The Senator has Mr. FORAKER. a right to insist that he is within the provisions of the treaty, and while the Senator has agreed that the clause he has just read was in violation of the treaty, yet in the bill he asks us to vote for he has incorporated that clause.

Mr. MITCHELL. I did not say that it was in violation of the

treaty.

Mr. FORAKER. I thought you did. Mr. MITCHELL. I said it was abrogated and repealed by the treaty. That is what I said, and that is what I say yet.

Mr. FORAKER. In other words, how is it abrogated, except only that the treaty is inconsistent with it, as it might well be?

Mr. PLATT of Connecticut. I should like right here to say that section 3 of the amendment which I proposed gives to the Secretary of the Treasury the power to change such rules and regulations as he may believe necessary to execute the treaty of 1894, and I think that the Secretary of the Treasury can, without a violation of that treaty, make rules which will, to all intents and purposes, exclude laborers and admit those persons who belong to the exempted classes.

Mr. FORAKER. Undoubtedly he can; but I do not want to pursue that matter further. Yet there is this remark appropriately to be made, suggested to me by the Senator from Wisconsin [Mr. Spooner], that if the treaty abrogated the law, as the Senator from Oregon [Mr. MITCHELL] quoted, then the enactment of the law which he proposes would, of necessity, as being the latest legislation, abrogate the treaty. So, then, we shall have no longer the treaty of 1894, and then, "Where would you be at?" At any rate, back to the treaty of 1880, if not back to the treaty of 1868, under which everybody could come in.

No. Mr. President. There is just one safe way to proceed, and that is the way of honor, which is also the way of interest, within the treaty, and in such a way as to retain the friendship of China, where we have such great commercial interests at stake. To do that we are all agreed that Chinese laborers should be excluded. and we do not care how drastic the provisions may be in that regard so they are within the limitations of reason. We must also all be agreed that we have a treaty, under which, at least, certain classes

of educated men are entitled to come to this country.

I claim that everybody is entitled to come who is not a laborer; but at any rate, as to those classes named, I insist that we shall keep faith: that we shall maintain our honor, and that we shall by doing so maintain the respect of the world and the friendship of China. I contend that nothing we can do in this matter will so subserve the interest of the wage-worker in this country as to maintain relations that will enable us to extend indefinitely our markets in China. Cut off those markets and you cut down the pay rolls, and that I oppose.









# REMARKS

OF

# Hon. Joseph B. Foraker

Saturday, May 3, 1902.

The Senate having under consideration governmental conditions in the Philippines.

Mr. FORAKER said:

Mr. President: It has been stated in this debate, and it was twice stated here this morning, that Governor Taft was guilty, when a witness before this committee, of withholding the two reports which have been referred to, and I find in the Record that he was charged with lack of can-

dor in doing so.

The record of the hearings before the committee, Mr. President, shows conclusively that such a statement is unwarranted. Governor Taft went to the Philippines as president of the Philippine Commission, under an order and appointment with which we are all familiar. In the order issued by President McKinley to Secretary Root, announcing the appointment of this Commission and defining its powers, it was expressly stated as an order to the Commission that they will, from the exigencies of the situation while there, be constantly under the control and direction of the Secretary of War. Therefore, while Governor Taft was civil governor, yet all his powers were to be exercised under the supervision and direction of the Secretary of War, and his reports were to be made to the Secretary of War.

When the two reports referred to were made to him, as he relates in his testimony, they were handed to him as he was leaving for the United States, and he did not see them until he was on the ocean. When he arrived in Washington he presented them to the Secretary of War. The Secretary of War at once directed Governor Taft to deliver the reports to him, not that he might suppress them, but, as the Senator from Wisconsin has so well pointed out, in order that he might order an investigation, such as has been referred to, into the truth of the charges that were made in those reports—the one made by Major Gardener and the other made by the secretary of the province of Batangas.

When Governor Taft was upon the stand testifying he did not withhold anything that he had in his possession or control. He was asked to testify and he undertook to testify as to the reports that were in his possession, and all those reports he did give to the committee, and they are to be found in the record. It is due to Governor Taft to put in the Record in this connection what he himself said in regard to this matter.

On the 8th of April, 1902, having learned that a charge of this nature was made against him, he sent to the Secretary of War, from Cincinnati, Ohio, where he then was, the following statement:

#### [Telegram.]

CINCINNATI, OHIO, April 8, 1902.

SECRETARY OF WAR, Washington, D. C .:

I send to you for transmission to Senator Lodge the following: I am advised by morning dispatches that I am charged with disobeying the rules of your committee in not producing before it a report made by Colonel Gardener, governor of Tayabas, on

conditions in that province.

conditions in that province.

The report was handed to my secretary, with many others on various subjects just before I sailed from Manila, December 24 of last year. I did not read it until I was well on my way across the Pacific. On reaching Washington I submitted it to Secretary Root, with the statement that Colonel Gardener was successful as military commander in Tayabas in keeping it peaceful; that he was a good governor, and was popular with the people, and that I would believe implicitly anything stated of his own knowledge, but that I feared the great friction between him and those officers succeeding him in military command had so influenced his judgment that charges made by him, necessarily based on evidence of others, against the conduct of necessarily based on evidence of others, against the conduct of military affairs in the provinces ought not to be acted on without giving those accused an opportunity to be heard, and that had I read the report before leaving Manila I should have referred it to General Chaffee for investigation and comment.

The Secretary of War accordingly directed me to transmit the

The Secretary of War accordingly directed me to transmit the same to him for the purpose of forwarding it to General Chaffee, and I did so under date of February 7. At the same time I submitted to him a report from secretary of Batangas Province (also delivered to me on the steamer), a report which by law could only be called for by the military governor, and this was also transmitted to the Secretary of War. Thereafter, on the same day, in my testimony before your committee, I produced reports from 23 governors of organized provinces, expressly limiting them to those in which there was no insurrection. (See record, p. 190.)

In other words, Mr. President, it appears from the statement of Governor Taft that what he testified about, and all he undertook to testify about, were the reports from the provinces that were pacified, and as to reports in his possession; but these particular reports had been, under the order of the Secretary of War, transmitted by Governor Taft to the War Department, in order that there might be this investigation made.

Now, I want to suggest just one other thought in addition to that which was suggested by the Senator from Wisconsin, or rather I want to elaborate one point a little more than he did. We are asked here to require that Major Gardener shall be summoned to Washington to testify in regard to charges which he has already made in a general way, but with respect to which he has refused to furnish any specifications or to give the names of any witnesses whatever. Why should he be brought here in order that there may be an inquiry into these matters when Senators must know that he can not give evidence without naming the offenses and without naming the witnesses who are in the Philippines, and if we are to have an investigation after we have heard Major Gardener, we must then send to the Philippines for the witnesses to either confirm him or to disprove that which he may have to say here.

If it be a question of having this matter investigated before Congress adjourns, it seems to me that the delay of the investigation until he can be brought here will be to make it absolutely impossible that we shall adjourn, even at the end of the summer, as the Senator from Wisconsin

suggested we might possibly be able to do.

So it seems to me that the place where these charges ought to be investigated is in the Philippines, where they were made. Look over the report of Major Gardener and see the nature of it and you will find that every charge he makes has reference to something that is alleged to have been done there: something that is alleged to have been said there; something that is alleged to have been done in the province of which he was governor, or something which is alleged to have been said in the Philippine Archipelago, and particularly something which is alleged to have been said at Manila by officers of high rank. That is his statement. If that be true, what he is talking about is not the statement of some indefinite somebody, but of somebody whose name can be given, somebody who can be found, somebody who can be brought before the board of inquiry, and somebody who can give a statement upon which these officers will be enabled to arrive at a conclusion as to whether or not there is any truth in what Major Gardener has said, or whether it has been in any manner whatever exaggerated.

There can not be, Mr. President, it seems to me, any abuse of the rights of Major Gardener in this matter. Every word of testimony that will be taken before this board of inquiry we have a right to assume will be taken down stenographically—it will be reported; and if he has heard witnesses say thus and so, he has but to name them there, and the records will show whether or not he was warranted in imputing to them what he says they have said, and we can judge when the record is made up and has been transmitted here whether or not the board has acted fairly.

I agree with the Senator from Wisconsin that we have a right to rely upon the honor of the officers of the American Army, and we have a right to rely upon it that what men with such military records behind them as have the officers constituting this board will do will be honestly done, be truthfully and justly done, and be done without any malice or without any intent whatever except only to arrive at

the truth. \* \* \*

Mr. CULBERSON. Mr. President, there is a statement in the hearings before the Committee on the Philippines questioning the candor of Governor William H. Taft with reference to the report of Major Gardener, civil governor of the province of Tayabas. I made the suggestion of lack of candor, and I take it that I am the Senator to whom the Senator from Ohio [Mr. FORAKER] referred in his remarks.

When Governor Taft was testifying before the committee, he stated that he had the reports of the civil governors of certain organized and pacified provinces in the archipelago which he would submit, and as others were received he would submit them to the committee as a part of his testimony in the case. After he had submitted the reports of the civil governors of 23 of those provinces the question came up as to why other reports had not been made, and I desire to read to the Senate a brief extract from the proceeding before the committee.

Mr. PATTERSON. Will the Senator from Texas state from what page he is about to read? Mr. CULBERSON, I will read from page 293,

Senator Culberson. You have referred to the letters of the governors in the record. As I count them, there are only 18 out of 34 organized provinces.

of 34 organized provinces. Governor Taft. Whatever the number may be. Senator Culberson. Why are there no letters from the other organized provinces on the question of pacification? Governor Taft. With respect to the pacified provinces, the request was made by General Wright, I think, not longer than a week before I left, by telegram, and the reports had not all come in. Shall I proceed?

Mr. President, the province of Tayabas was an organized province in the archipelago. The Philippine Commission had appointed a civil governor of that province, and he was discharging the duties of that office. Governor Taft said in substance and led the committee to believe that he had delivered to the committee all of the reports which he had received from the governors of organized and pacified provinces in the archipelago.

That is not all about this matter, Mr. President. The direct question was put to him why there were no letters from the "other organized provinces on the question of pacification," and he answered evasively that the reports which had been received from pacified provinces had been submitted, when at that very time, at the very moment the Governor was testifying, he had in his possession or subject to his control in the War Department this extraordinary report of the governor of the province of Tayabas.

Is that candor, in the opinion of the Senator from Ohio? Was that a fair, a manly, a candid statement upon the part of Governor Taft to say, in effect, that he had submitted to the committee all the reports of the civil governors of organized provinces in the archipelago on the subject of pacification when he had at that time, in conjunction with the Secretary of War, withheld, and, in my judgment, undertook, to that extent and for that time, to suppress from the committee and from the American people this report, which was from the civil governor of an organized province?

There is yet another phase of this question.

On the 27th day of January of this year the Senator from Massachusetts [Mr. Lodge] submitted a resolution, which was at once adopted, from the Committee on the Philippines, empowering the committee to examine into all the conditions in the islands, and since that date the committee has been engaged in the exercise of that duty; and while it was proceeding one of these reports was withheld, and the Secretary of War is now attempting to take from the Senate committee and from the Senate an examination into the condition of that province as directed by the Senate.

This effort on the part of the Secretary of War to take from the Senate committee and from the Senate the right which it was proceeding to exercise of examining into these conditions is indorsed by the Republican side of this Chamber, and when we suggest that we ought to be allowed to proceed they answer us that the procedure should be under the direction of the Secretary of War because he had first assumed jurisdiction, when as a matter of fact the Senate had first assumed jurisdiction. The Secretary of War took from the committee, through Governor Taft, a portion of the testimony to which it was entitled, and he now endeavors to take this examination into his own hands and out of the hands of the committee. \* \* \*

Mr. President, Governor Taft said in his testimony that the province of Tayabas had been organized, a civil governor had been appointed, and that with the exception of a small portion of it it had been pacified. The reference which the Senator from Iowa makes to the record in the hearings is as to the testimony that Governor Taft was giving and not with reference to any report of the governors of provinces. In order that I may be thoroughly understood, I want to read again my question to him. It was as follows:

Why are there no letters from the other organized provinces on the question of pacification?

I did not ask him why he had not submitted any letters from other organized provinces on the question of pacification, but I asked him why there were no other letters on that subject; and the governor was uncandid enough to evade it and suggest that he had submitted all of the letters he had received from wnat he called the pacified provinces, when, as I have repeatedly said, he had at that time this unfavorable report of conditions in the province of Tayabas,

which was organized. \* \* \*

Mr. FORAKER. Mr. President, the Senator from Texas [Mr. Culberson] has talked to us about a lack of candor, lack of frankness, about evasion, about intentional suppression of the truth, and has charged all these offenses to Governor Taft. I have the highest respect for the Senator from Texas. I believe that he thinks he believes everything that he says. But, Mr. President, he has said some things here which I am sure he will not adhere to when his attention is called to the record from which he has quoted. He has told us not only once, but repeatedly, in the course of the remarks he has just made that when Governor Taft made the answers to his questions which he read from page 293 of this record, he had in his possession these two reports, one from Major Gardener and the other from the secretary of the province of Batangas.

Mr. CULBERSON. I said he had them in his possession

or subject to his control in the War Department.

Mr. FORAKER. At one time the Senator added that qualification but when he was answering the Senator from Indiana [Mr. Fairbanks] he said without any qualification whatever that the trouble with Governor Taft's answer was that when he said he had given these reports he had in his possession two reports which he was withholding, and he not only said he was withholding these reports, but he said he was withholding these reports for the purpose of keeping the truth from the committee that had a right to the reports. I may not quote his exact words, but I do not exaggerate the statement the Senator from Texas made. I think I have quoted almost identically the language that he employed.

Now, what is the truth? That testimony was given by Governor Taft on the 14th day of February, 1902, before the committee. In his letter which I read a moment ago, when I last had the floor, Governor Taft tells us that on the 7th day of February, seven days before that time—in response to an order made upon him by the Secretary of War, whose order he was bound to obey—he had trans-

mitted both these reports to the Secretary of War.

Mr. PATTERSON. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.

Mr. PATTERSON. I simply want to ask the Senator from Ohio to give us the date of the letter from which he quotes.

Mr. FORAKER. April 8, 1902. Governor Taft at that time had concluded his testimony before the committee, and had returned to his home at Cincinnati. While in Cincinnati he learned, from what was published in the daily papers, that it was being charged here that he had withheld these two reports from the committee. Thereupon he wired to the Secretary of War the telegram which I read, and requested him to furnish the same to the chairman of this committee. I called attention a moment ago to the fact that he is bound by the orders under which he is acting, to be governed and directed in all things by the Secretary of War. He is bound to make all his reports to the Secretary of War, and to communicate all his proceedings through the Secretary of War. \* \*

Mr. FORAKER. Mr. President, I wish to conclude the few sentences I want yet to speak before taking my seat. The PRESIDENT pro tempore. The bill touching civil government in the Philippine Archipelago is before the Senate.

Mr. FORAKER. So I understand.

This interruption has been so long continued that I am afraid I have forgotten just what I was saying when it commenced, but my recollection of what I was saying is that I was undertaking to point out to the Senator from Texas that at the time when Governor Taft answered the questions cited by him from the record, namely, on February 14, for that is the date given in the record, when he was giving that testimony, he did not have in his possession these two reports. He could not therefore have withheld the two reports, and it is not true, as I understand it, Mr. President, that he had any control whatever over these reports. It was his business to obey the order of the Secretary of War with respect to that as with respect to everything else, and when he received an order from the Secretary of War to turn over to him these two reports and he complied with it that was the end of his control over the reports.

Mr. CULBERSON. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. FORAKER. Well, I will yield.

Mr. CULBERSON. Just a moment. The Senator undertakes to defend the action of Governor Taft in withholding these reports on the ground, as he puts it, that he had been ordered by the Secretary of War to deliver them to him, and that he was compelled to cbey, whereas the facts, undisputed in the record, show that Governor Taft voluntarily delivered the reports to the Secretary of War himself.

Mr. FORAKER. Mr. President, the Senator from Texas is again in error. If the record shows any such thing as he now states, I do not know where in the record it can be found. I can point out to him, and I have already pointed it out to him and to the Senate, that the record shows

just the contrary, for Governor Taft says in this communieation-

Mr. CULBERSON. I will read it.

Mr. FORAKER. Mr. President, I will yield, of course. if the Senator wants me to, but I should like to utter at least two sentences without being interrupted.

Mr. CULBERSON. I will read it.

What is the page? Mr. FORAKER.

Mr. CULBERSON. The Senator was replying to what I said, and he charges distinctly that there is nothing in the

record such as I suggested.

Mr. FORAKER. I said, Mr. President, that I did not know where you could find in the record what the Senator said was in the record, and I said I knew where I could find the contrary in the record.

Mr. CULBERSON. I will show it to you.

Mr. FORAKER. Very well; but could you not wait a little while until I conclude?

Mr. CULBERSON. It comes in very good just now.

Mr. FORAKER. Very well; I will yield to the Senator.

Mr. CULBERSON (reading):

Washington, D. C., February 7, 1902.

Mr. FORAKER. On what page?

Mr. CULBERSON. Page 886 of the record.

HON. ELIHU ROOT,

Secretary of War, Washington, D C.

Sir: I herewith transmit to you reports of the condition of Batangas and Tayabas, disturbed districts in the archipelago, with a view, as suggested in our conversation, to an investigation of certain charges made by Colonel Gardener, the governor of Tayabas as to the conduct by American troops in the suppression of the insurrection in these two provinces.

Very respectfully.

WM. H. TAFT.

Mr. FORAKER. Mr. President, I submit that what the Senator has read does not show that Governor Taft voluntarily placed these reports in the hands of the Secretary of War. He states in his communication that he transmits them pursuant to their conversation, his language being-

with a view, as suggested in our conversation, to an investiga-tion of certain charges made by Colonel Gardener, the gover-nor of Tayabas, as to the conduct by American troops in the suppression of the insurrection in these two provinces.

Now, Mr. President, let that oe read in connection with what I have already called attention to, the statement of Governor Taft, as found on page 889 of the record. Governor Taft there says:

The Secretary of War-

After he had acknowledged the receipt of these reports-

The Secretary of War accordingly directed me to transmit the ame to him for the purpose of forwarding it to General Chaffee and I did so under date of February 7. At same time I submitted to him a report from secretary of Batangas Province (also delivered to me on the steamer), a report which by law could only be called for by the military governor, and this was also transmitted to the Secretary of War.

Now, Mr. President, we have it in the record upon this statement of Governor Taft that he did not act voluntarily, but by direction of the Secretary of War. While the Senator from Texas talks as though he did not want to believe him, I submit that other Senators here will believe him, for no man who has ever known Governor Taft has ever, so far as I am aware, questioned his candor or his frankness down until this occurrence. If there is a man in all the world absolutely faithful to the truth in any statement that he may make, and conservative in the statement of it, that man is Governor William H. Taft. I have known him all his life. I know whereof I speak when I pay to him that high compliment, for a high compliment it is.

Now, here is his statement in this record. It is a statement that when he arrived here, having received these reports at the steamer, not knowing anything about them until while he was on his voyage, he acquainted the Secretary of War with them, as it was his duty to do, he being his superior officer to whom he must make report. Thereupon the Secretary directed him to deliver these reports to him in order that he might order an investigation, which it at once occurred to them ought to be made as to the truthful-

ness of these charges.

So, Mr. President, I say that when the Senator from Texas said to the Senate—and he said it without excuse, Mr. President, for he is a member of the committee; he helped make this record; he was familiar with it, or at least he should have been; and when I say without excuse, I mean there was no excuse for his not knowing what the record showed, for he undertook to tell us what was in it, and we had a right to believe that he thoroughly understood every page of it—when the Senator from Texas said, in reply to the Senator from Indiana, that on the 14th day of February, Governor Taft had these reports in his possession and withheld them, he was stating what this record shows conclusively he was not warranted in saying. He did not at that time have them, and he had no more control over them than had the Senator from Texas.

Now, Mr. President, another word. The Senator says that is the only defense I have to make for Governor Taft. Mr. President, that is the only one I need make, in view of the remarks made by the Senator from Texas, but it is not the only defense to the charge he makes. The Senator from Iowa [Mr. Allison] cailed attention a while ago to what, I think, is at the bottom of all the misunderstanding there is here, and it could not be anything but a misunderstanding, for I have that respect for the character and the integrity and the sense of justice of the Senator from Texas to believe that he would not intentionally do any man an injustice. At the bottom of it all is exactly what the Senator from Iowa called attention to. On page 292 of this report Governor Taft testified before the committee. and on the same day, at the same moment almost, for it immediately precedes what the Senator from Texas calls attention to-on the same day he made the statements the Senator takes exception to. He said, prefacing it all, when asked in regard to these various reports, as follows:

Governor Taft. Now, as to the conditions prevailing in the pacified provinces-

I want Senators to notice the language—conditions prevailing in the pacified provinces—

And then he adds this parenthetically:

I leave out Batangas, Laguna, Tayabas and Samar, because all of Batangas is involved in the present so-called guerrilla warfare, part of Laguna, part of Tayabas, and all of Samar, and possibly, though there is a difference of opinion about that, a little tract in Misamis, the difference of opinion being as to whether Hufino is an insurrecto or a ladrone.

. .

In other words, Mr. President, there were, at the time when Governor Taft was testifying, pacified and unpacified provinces-pacified provinces, in which civil government had been established, and provinces not pacified, still being governed by military officials acting as their governors. Therefore, when he came to testify he said—speaking of pacified provinces, not only saying that he leaves out the unpacified provinces, but naming the pacified provinces to which he refers, and in that connection naming the very province where Major Gardener was acting as governor-he said: "I am speaking of them, and them only, and not of the others," thus and so-

Mr. ALLISON. Mr. President, I should be glad if the

Senator would yield to me for a moment.

Mr. FORAKER. I yield to the Senator with pleasure.

Mr. ALLISON. I wish to call the Senator's attention to page 293 of the testimony, where Governor Taft states that a few days before he left the Philippines Acting President Wright had sent for the report of the pacified provinces, showing that he drew this distinction very clearly and fully.

Mr. FORAKER. I thank the Senator from Iowa for calling my attention to that fact, for it is true, as stated by the Senator from Iowa, that on page 293 of this record

Governor Taft does make exactly that statement.

But, Mr. President, it must be perfectly clear, it seems to me, to any man who wants to judge this without bias or without prejudice that it must have been a misunderstanding—for it could not have been anything else—that led the Senator from Texas to impute to Governor Taft a lack of frankness or a lack of candor. The Senator should understand the fact that Governor Taft had specified the unpacified provinces, and Tayabas as one of them, and that he then simply dismissed them from his mind. He was talking, as the Senator from Iowa [Mr. Allison] calls my attention to the fact, about the pacified provinces, and about them only. That is not all. Governor Taft speaks again on that very point in the communication from him that ! have already read, at page 889 of the record. After having made the statement I have read, he says:

I produced reports from twenty-three governors of organized provinces, expressly limiting them to those in which there was no insurrection. (See record, p. 190.) I did this for the purpose of discussing tranquillity in those provinces (see record, p. 292 and following)-

#### That is just what I have been reading—

and I expressly omitted from such discussion Batangas, Samar, Laguna, and Tayabas, where there was insurrection. While Tayabas had not been formally turned over to military government, the writ of habeas corpus had been suspended in cases of prisoners in military custody. My attention was called to the fact that only twenty-three reports had been submitted, and I explained that all the reports from pacified provinces had not been obtained before I left Manila, and offered to file all reports as they came by mail. I was asked to file all reports I might receive while in Washington, and I agreed to do so. (See p. 293 of record.) From time to time I have complied with this request, and all reports from pacified provinces are now on file. (See p. 349 of record.)

I have on hand three formal annual reports from the ernors of Romblon, Capiz and Isabela, reports from whom have already been filed, and these annual reports will be also filed. I submit to your honorable committee that I have not disobeved your rules in failing to produce any reports called for from me or agreed by me to be produced.

WM. H. TAFT.

Mr. President, the only criticism the Senator from Texas, it seems to me, has any right to make on Governor Taft is that when he was being examined on this point he did not volunteer to him the information that a report had been received from one of the unpacified provinces of which mention is made. That is explained by the fact that he had been required by the Secretary of War to turn that report over to the Secretary of War in order that the Secretary might order an investigation, and have it conducted, of the charges therein made. I can understand how the Senator might think that Governor Taft ought to have said that, but, knowing the character of Governor Taft as I do, I know that it never occurred to him that he was evading

anything when giving his testimony.

It seems to me that, on the contrary, his frankness is marked by statements that indicate that he was not withholding anything, but that he was verbally painting a picture of the conditions exactly as they existed; and it is no breach of confidence for me to say that, in the course of a conversation I happened to have with Governor Taft while he was on the stand as a witness—I do not mean while he was on the stand actually testifying, but I mean during the period while he was in attendance upon the committee —he said to me that he had no responsibility for consequences, and the truth, the whole truth, and nothing but the truth, would be the statement he should make on any question he might be asked about. I know it never occurred to him that he was withholding any truth; it never occurred to him that he was evading the point of any question the Senator from Texas or any other Senator was asking him or might ask him.

Therefore, I submit, Mr. President, that Governor Taft can not be charged here in the Senate, after the full and frank and truthful—manifestly truthful—statements made. with attempting to evade, or with a lack of candor, or with misleading the committee, for he expressly stated to the committee, and the committee was given to understand—and it was not the fault of Judge Taft if they did not understand—that he was speaking only of the pacified provinces, and not of Batangas, Laguna, Tayabas and Samar; and when he made that announcement to the committee any fair-minded man should have concluded that Governor Tait had a right to believe that every man on that committee would know that the questions propounded to him, unless they were specified otherwise, would have direct relation to the provinces about which he was testifying and con-

cerning which he had a special responsibility.





#### THE PHILIPPINES.

## SPEECH

OF

# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES,

MAY 12 AND JUNE 2, 1902.

**---**---

WASHINGTON. 1902.

#### SPEECH

### HON. J. B. FORAKER.

The Senate, as in Committee of the Whole, having under consideration the bill (S. 2295) temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes—

Mr. FORAKER seid:

Mr. PRESIDENT: So far as the details of this bill are concerned I shall probably say but very little, if anything at all. There are two reasons for this. In the first place, I am not a member of the Philipppine Committee and have not had the benefit of the hearings before the committee, and I have not had the benefit of the consultations in the committee and have not had the benefit of participating in the labor of the committee in framing this measure. Therefore, while I have read the bill, and read it carefully, as I think, and have studied its provisions sufficiently to be satisfied with them, yet I recognize that the members of the committee are necessarily better qualified than I am to answer the criticisms which have been made, or may be made, upon some of the provisions of the bill, and for that reason, a sufficient one of itself, I pass by the discussion of the various provisions of the

But the other reason I have, to which I have referred, is a more important and a more commanding reason why I should do this. It is found, Mr. President, in the fact that the opponents of this measure have given to this discussion so wide a range that it comprehends the entire Philippine problem. This was indicated in one of the first sentences of the first speech made in this debate by the Senator from Tennessee [Mr. Carmack], when he stated that in this controversy the real issue is not this bill, but the policy of which it is an exponent. The Senator, after making that statement, then proceeded to make a very elaborate speech, and I can say in all good conscience, so far as its literary quality is concerned and so far as it is concerned as an intellectual effort, it was a great speech. I do not think I have ever read a speech with more entertainment than I read that one, although I do not agree with a single proposition or view advanced by the Senator.

And yet, notwithstanding I can say all that in compliment of his speech, the fact remains that when you come to analyze it and apply it to the measure which we have under consideration it divides itself into four divisions or chapters or propositions. In the first place, in this first division, if I may so term it, the Senator addresses himself to the proposition that our policy in acquiring and undertaking to govern the Philippine Islands is a mistaken and wicked policy. He used more extravagant language than that, but the words I have employed will indicate what he meant. It is a mistaken and wicked relieve he said for which meant. It is a mistaken and wicked policy, he said, for which

only the Republicans are responsible.

His second proposition was that our policy in acquiring and governing the Philippine Islands is a mistaken and wicked policy,

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for which the Democrats are not responsible. His third proposition was that as to the Philippines we have no policy whatever, and he concludes his remarks in that connection with a demand that we shall at once adopt and declare and define some policy.

The fourth division of his speech is but an impassioned outcry about thieves and robbers and pirates and plunderers and other pleasant people of that kind connected with declarations about cruelty and barbarism and butchery and murder and bloody ruin.

The Senator very naturally concludes, as the result of all this, that we ought to retire at once from the Philippines, or as soon,

at least, as we can get out of them.

Other speeches have been made in opposition to this measure, very able ones, notably, without meaning to disparage anybody else, the speeches made by the Senator from Utah [Mr. RAWLINS], the Senator from North Carolina [Mr. SIMMONS], and the Senator from South Carolina [Mr. TILLMAN]. In so far as they talked about general questions they were all of the same general character as the speech of the Senator from Tennessee to which I have referred.

And so it is, Mr. President, that I say we have the whole Philippine problem opened up by this debate, and the first question for us to address ourselves to is not what shall be the provisions of a bill, but whether or not we shall have any bill at all; for in view of what has been said, if we are to consider it seriously, necessarily the first question is whether we intend to remain in the Philippines or come away from the Philippines, as Senators speaking in opposition have suggested we should do, and demand

that we should do.

If we are to come away immediately, or this year, or next year, or at any time in the near future, it is not very important, Mr. President, whether we enact this bill or not, for until that time we can continue to get along as we have been getting along, with military rule supplemented with such civil government as the Taft Commission can supply. But if we are to remain in the Philippines indefinitely—if we are to remain there, for instance, until we shall have suppressed all opposition to our authority, until we shall have established law and order throughout the length and breadth of that archipelago, until we shall have established a stable government, and shall have set it into successful operation, and shall have put the feet of that people into the path that leads to more enlightened knowledge and greater happiness and greater prosperity and a higher civilization—it is of the utmost importance that we should pass either this bill or some other bill like it. It is important because the time of withdrawal will be indefinite. We must stay there much longer than has been suggested by anybody on the other side, whether we ultimately come away or not; and important also because military government is inconsistent, generally speaking, with the spirit of our institutions, and it is obnoxious to the people who are to be governed.

So it is, Mr. President, that the first great question for us to consider is whether we intend to stay for this indefinite period. for we need not consider more than that, or whether we intend to come away. I want to say at the outset that we are not coming away, as Senators have suggested and have demanded in the speeches which they have made here. We are not coming away. Mr. President, certainly under this Administration, and we will not so come away under the next Administration, no matter whether that be a Democratic or a Republican Administration.

We will not come away, because we can not come away, as Senators have suggested and demanded, unless we write dishonor and poltroonery across the forehead of the American people; and no Administration will do that, or be allowed to do it by the

American people.

When I make that remark I refer, Mr. President, to the obligations we are under to remain in the Philippines. Senators must not overlook the fact that we are under such obligations. In the first place, we are bound by the stipulations of our treaty of peace with Spain to remain in the islands asserting our governmental authority there, and our power there, for the protection of every Spanish subject there remaining in the enjoyment of his property rights. In the second place, we are so bound as to his personal or civil rights; and, in the third place, we are obligated by the stipulations of that treaty to protect all the inhabitants of the Philippine Islands in the enjoyment of their religious rights and privileges.

There is another specific obligation, and that is that the vessels and the merchandise of Spain shall have an open door with us in the Philippines for the stated period of ten years. We can not come away without providing for these obligations and their en-

forcement without committing an act of dishonor.

But, Mr. President, that is not all. By the mere act of taking title and taking possession and establishing jurisdiction and asserting authority and sovereignty we have bound ourselves to the subjects there residing of every other civilized power on the face of the earth by the mere operation of international law to protect them in their property and civil rights, and to stand between them and anarchy and chaos and disorder and blood and murder.

That is not all. We have a very sacred obligation in the Philippines which we must not overlook, if we conclude to abandon the Philippines, and that is our obligation to the friendly Filipinos. In the first order, I was about to say, perhaps it is a proclamation; at any rate, in the first official communication made by President McKinley after the negotiation of the treaty and before the treaty was ratified and promulgated to the Filipinos through our representatives in the Philippine Islands, dated, I believe, December 21, 1898, occurs the passage I shall read. After setting forth the negotiation of the treaty, and that in pursuance to that we would take possession of the islands in due time if the treaty should be ratified, the President said:

All persons who either by active aid or by honest submission cooperate with the Government of the United States to give effect to these beneficent purposes will receive the reward of its support and protection.

There was a pledge given by the President of the United States, speaking for the people of the United States, to the friendly Filipinos who have stood by us and who have cooperated with us from the time we took possession down until this moment, assisting us to assert and uphold and maintain our authority there. We owe an obligation to them to protect them, as the President said they should be protected, by the strong arm of power of this great Government—protected in their property rights, protected in their individual and personal liberty and all their civil rights of life, and in every other respect, just as was contemplated.

But, Mr. President, that obligation would have arisen if there had been no such language as that employed by the President of the United States. Natural law would have created those

rights. These people are not a few; they are many. They are not numbered by hundreds or by thousands or by tens of thousands, but by hundreds of thousands and possibly by millions. There are those who have asserted, and with good show of right so to assert, that a majority of the eight or ten millions of people inhabiting the Philippine Islands are in their hearts friendly to our cause and our flag and our people, welcoming us to their islands

and assisting us to remain there.

But whatever the number may be, we know, Mr. President, that they are numerous. We know that they have given us active aid. We know that they have enlisted under our flag, that they have fought side by side with our own soldiers, and that many of them have given up their lives in behalf of our cause in the Philippines; and we know beyond that, as the official record has disclosed during the progress of this debate, that to the number of hundreds these friendly Filipinos, on account of their active aid and assistance to us, have been foully assassinated and murdered by the savage insurrectionists who have been opposing us.

Now, I say, in the first place, we can not come away because of our treaty obligations to Spain. We can not come away, in the second place, because of our international obligations to which I have referred. We can not come away, in the third place, because of our obligations to these friendly Filipinos, whom we have no right to desert, unless we propose, as I said in my opening re-

mark, to act the poltroon.

There are other reasons which I might stop to enumerate why we can not come away, as has been suggested in these speeches, but I do not need to go beyond the point I have reached. I do not need to say more to that effect, because Senators who are in opposition have said all the rest, if any more need be said.

 $\hat{\mathbf{I}}$  have before me the amendment which is to be offered at the proper time by the Senator from Utah, and which is to be in the nature of a substitute for this bill. It has been an easy thing for Senators to stand up here in this Chamber and tell us about withdrawing from the Philippines; that we had acted unwisely and mistakenly in going to the Philippines: that it was our duty to get out as soon as possible, and that in that behalf we should make haste to relinquish authority and abandon all claim of sovereignty and the right to govern. It was easy for them to stand here and say that; but when Senators undertook to put on paper how we would do that they found the very difficulties in the way to which I have been referring. They got along very well with their first section. I want to call attention to this substitute carefully, for they show by this substitute, which I understand is to be offered on behalf of the minority members of the Philippine Committee, the utter impracticability, as it occurs to me, of their proposition, and the absolute necessity we are under, according to my view of it, for us to remain there so indefinitely that it is our duty to proceed forthwith with our legislation as proposed by the pending bill.

Section 1 reads as follows:

Section 1. That, subject to the provisions hereinafter set forth, the United States of America hereby relinquish all claim of sovereignty over and title to the archipelago known as the Philippine Islands.

That reads off very beautifully. It was not much trouble to write that, and yet Senators will observe that even in writing that the minority found it necessary to put in a proviso, and that proviso is that we are to abandon, to relinquish, and come away,

...

"subject to the provisions hereinafter set forth." There is to

be some provision about it—some condition about it.

Now, let us see what the conditions are, and when you take the second section and read it you will find that instead of coming away they have concluded to stay. We have just abandoned just relinquished—but at once we conclude to stay. To use the exact language of section 2-

That the United States shall continue to occupy and govern said archipelago until the people thereof have established a government.

That is the first condition. There are a number of other conditions named, but before I call attention to them let me stop and dwell upon that one for a moment. We are going to "relinquish," and at the same time we are going to "continue" there in possession and in government until, not we establish a government, but

"the people" of those islands establish a government.

Mr. President, the first remark I want to make is that that statement is misleading, at least it would be misleading to anyone who is a stranger to the conditions in the Philippines. The declaration is that until "the people" there shall establish a government. The Senator who drafted this substitute knew as well as anybody else that the inhabitants of the Philippine Islands are not "a people," but that they are many peoples and many tribes of many peoples. I find by reference to the report of the first Philippine Commission, of which Dr. Schurman was chairman, that they have three distinct races of people in the islandsthe Negrito race, the Indonesian race, and the Malayan race. I find there are 21 tribes of Negritos, 16 tribes of Indonesians, and 47 tribes of Malays. There are no two tribes in the whole archipelago who speak the same language and have the same civilization, or have the same kind of domestic order or domestic institutions, or who have really any positive affiliation with each other except subject to some kind of material modifications.

The important tribes are the Visayans, numbering 2.601,600; the Tagalogs, numbering 1.663,900; the Bicols, numbering 518,100; the Recanos, numbering 441,700; the Pangasinans, numbering 363,500; the Pampangas, numbering 337,900; the Moros, numbering 268,000, and the Cagayans, numbering 166,300. This information is found on page 15 of the report of the Schurman Com-

I need not read further to show that here we find before us officially a statement showing that there is no such thing as "a people" inhabiting the Philippine Islands in the sense in which that term is ordinarily employed, but that the inhabitants are peoples and many peoples of different races, with antagonistic interests, and anybody knows who stops to think of it, and contemplates what has been put before us in the progress of this debate, that if we are to continue in the Philippine Islands, and govern there until the Moros, the Tagalogs, and the Visayans all agree upon some Tagalog or Malay chief to be at the head of the government, which we will suppose they are able to agree upon, we will stay there a good deal longer than any of us will stay in the Senate of the United States.

Mr. CARMACK. Mr. President-

Mr. FORAKER. I yield to the Senator. Mr. CARMACK. I only want to ask the Senator from what report he was reading in regard to the number and character of the tribes?

Mr. FORAKER. I was reading from the official report of the

Schurman Commission—the first commission to the Philippine Islands.

Mr. President, that is not all. According to the substitute we are to stay there until these people, without any help from usfor we are not to establish this government—shall come together and shall agree upon a form of government, and shall frame and adopt a written constitution in which shall be defined the departments of government, the powers of these departments, and all the various officials—we are to stay there until all that is done. That means, as I say, longer, I think, than anybody here has been

insisting that we should stay.

That is only my opinion. The Senator who framed this substitute, or the minority Senators who, as I understand, are to present it, may have a different opinion about that. They may think it is easy. It is because I do not think it is easy, and because I recognize, just as they recognize, that we can not come away until we substitute some government for our government, that I think we must stay there indefinitely and that it is our duty to provide for a civil government. But we are not to come away as soon as we get "a government," but are to continue there until they have established this government, and then we are to continue there, thereafter, until that government shall have given us "sufficient guaranty" "for the performance of our treaty obligations with Spain.

There, Mr. President, is a recognition in this substitute at the hands of the minority members of this committee, who are opposing the bill reported by the majority, that we have the treaty obligations to take care of that I referred to in my opening remarks. They recognize that we can not without dishonor pack our baggage, haul down our flag, call away our Army, and come home with it until we have made some provision for the faithful performance of the obligations we solemnly entered into with

Spain when we signed with her that treaty of peace.

I need not stop to comment on what they are, for I have already, perhaps, sufficiently called attention to them to show the difficulty that will attend us in the discharge of those obligations or attend anybody else who may undertake to discharge them.

But now I want to call the attention of the Senate to this: We are the contracting party with Spain; these are our obligations; we have undertaken to protect the subjects of Spain in the Philippines. Would the Spanish Government be willing to let us step down and out, and substitute in our place a Filipino government not yet organized, and with respect to the character of which no man can foretell anything with certainty? Why, it is a preposterous idea. Is it for the United States and the Filipinos alone to agree as to what is to be done with respect to our obligations to Spain? Certainly not. Spain is the contracting party with us, and we must look to Spain as that contracting party, as well as to the beneficiary. I do not believe Spain would ever agree to that.

But let us look further. I said I need not comment further as to what our treaty obligations to Spain are, yet it comes into my mind that I ought to do so for the reason that one of these treaty obligations is that we will protect all persons—all inhabitants, individuals, corporations, and everybody else—residing in the Philippines at the time of this treaty, in the full enjoyment of their property rights and their civil and religious rights.

The great difficulty that Spain had in getting along with the

Tagalos was on account of—I think it will be agreed here—the trouble over the friars and the friars lands. The ecclesiastical corporations held a half million acres of land, I believe.

Mr. BACON. About 400,000 acres.

Mr. FORAKER. I have seen it stated as high as 509.000 acres, but say four or five hundred thousand acres. These ecclesiastical corporations held against the will of Aquinaldo—and all his followers agree with him—four or five hundred thousand acres of land; that is church property, as they claim. We entered into a compact with Spain, according to which we bound ourselves to protect property rights, and that meant to protect the friers, as well as anybody else, in the enjoyment of their property and their religious opinion and belief, and in the exercise of their religious

privileges and rights.

Now, in this bill a provision is made to solve the difficulties we are having on account of these friar lands being tied up in this way, which provision has been criticised by the Senator from Colorado [Mr. Teller]. I have not had time to investigate it as thoroughly as I should like, but his criticism shows—whether it be well taken or not—what a difficult question it is that we have to deal with there. If it is to be dealt with, as we are proposing, by the selling of bonds for raising five or six million dellars, buying from the friars their lands, and paying for them with the proceeds of the bonds, and then turning around and recouping by selling the lands to the inhabitants of the islands, it involves a transaction of considerable importance, one behind which there must be somebody who is quite substantial.

I have said enough Mr. President, to show how important is the provision of this substitute, that we are not to come away from there until we have sufficient guaranties from this government—to be established by these Filipinos—that they will discharge that obligation of the United States. Do you think that Spain would be willing—knowing how savagely hostile the Filipinos are to the friars and their property rights there—to substitute a Filipino government for the Government of the United

States?

Everyone knows she would not: and we could not come away with our obligations cared for unless she would assent to it. But if she were to a sent to it, then what would be the next consideration? We would then have to find that there was a government established, a government organized, and that this government, so established and so organized, was so successful and so stable and so resourceful from revenues or otherwise that her obligations to us to take care of that transaction, amounting to at least five or six millions of dollars, would be satisfactory and so just and so humane as to satisfy us that in dealing with her old-time enemies, the friars, they would, as we are bound to do, act with justice and equity toward all the people and all the interests concerned. That is a quite comprehensive proposition.

But, Mr. President, that is not all. We are, according to the

But, Mr. President, that is not all. We are, according to the substitute, to continue in the Philippines, holding title, holding possession, and governing the Philippines until they establish a government and until that government gives us a satisfactory guaranty that all our treaty obligations shall be taken care of. But we are to stay longer than that. We are to stay there and govern until that same government, having given all the guaranties and assurances that I have enumerated, goes further and

gives us a guaranty also "for the safety of those inhabitants who

have adhered to the United States."

I commented upon that a while ago, and I called attention to the fact that in the very first proclamation of President McKinley to the Filipinos-the proclamation of December 21, 1898-he declared that all the inhabitants of the Philippine Islands who should cooperate with us and give us their friendship, active or otherwise, should be protected in their persons and their property by the strong arm of the Government of the United States. If he had not said that we would have been so obligated; but having said

it, our obligation is more explicit.

The Senator who drafted the substitute recognized that obligation; and, Mr. President, it is certainly the most sacred of all the obligations we have undertaken, and at the same time, as everyone knows, the most difficult of performance. Between these Filipino tribes and peoples, or, at least, between many of them, there is a natural enmity that has continued through generations. But between the Filipinos that have adhered to Aguinaldo and the Filipinos who have adhered to the United States, there is a savage enmity; and if we are to withdraw, it would be, as some one recently said in apt phrase, but to invite "a welter of blood."

To proceed, are we to accept the guaranty of a Filipino government to be established this year or next year or the next, that our obligations to Spain shall be discharged, that our international obligations shall be discharged, and that these, our most sacred obligations to the friendly Filipinos, shall be faithfully

Mr. President, I do not apprehend that it would be possible for the people of the United States or any Administration—this one, or the next one, or any one of the future—to be satisfied on that point; and for us to withdraw until all these matters are provided for is, as this substitute recognizes, for us to act with dishonor and to come away from duties that we have no right to evade or to disregard. That is not all.

The minority go on to provide that not only all that shall be done, but that, in addition, the Filipinos shall give us sufficient guaranty that all the rights which have been acquired by anybody in the Philippine Islands since our occupation of them shall

be safeguarded and fully protected.

It was an able Senator who drew that substitute. He studied carefully this whole subject before he put his pen to paper. He wanted to draw a substitute that would recognize the conditions existing there, because he knew he would have to meet that propo-He did not put anything in this substitute that he did not recognize he would be bound to put there before there could be any such legislation enacted. When he studied it, and when he so wrote, he was recognizing the actual situation with which we must deal, and, although he doubtless wrote it down in good faith, yet, to my mind and I think to the mind of pretty nearly everybody else who stops to look at it, he succeeded in making it clear that the proposition so glibly spoken here in debate, that we should come away immediately, this year, or next year, or in the near future, is an absolutely impracticable proposition which we might just as well discard.

But, Mr. President, there is something else in this substitute, and which the drafter foresaw would be required. In section 4 it is provided that after they shall have adopted a constitution such

as they are to be required to adopt they are, as in the case of the Platt amendment, to write into that constitution certain conditions:

Provided, That said convention shall provide by an ordinance, irrevocable

without the consent of the United States:
First. That there shall belong to the United States and continue to be the property thereof such lands and waters as the President of the United States shall designate to the said convention for naval, military, and coaling stations and terminal facilities for submarine cables, the same to continue under the

and terminal facilities for submarine cables, the same to continue under the control and sovereignty of the United States.

Second. To carry into effect the treaty obligations of the United States with the Kingdom of Spain, and for the maintenance and protection of all rights and property acquired under the authority of the United States.

Third. That no inhabitant of said archipelago shall ever be molested in person or property on account of his or her adherence to the United States.

Stopping there for a moment, Mr. President, does anyone imagine that we would be able to select harbors, naval and coaling stations, and military stations in those islands to the satisfaction at the same time of this Filipino government and the people of the United States? Would they surrender to us, if the President of the United States should designate it, the harbor and bay of Manila? Would the people of the United States, if we are to remain at all in the Philippines, consent that their authority and jurisdiction should cease over that bay, to which is attached so much of glorious historic interest?

I comment on this and other necessary provisions—for they are all necessary—simply to show the futility of the proposition now

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m made.}$ 

Mr. President, here is another. We are not done with these difficulties. The minority, in their substitute, recognize that it is not quite the thing for the United States, after these three or four years of occupation, to sail away from the Philippine Islands, leaving them to a Filipino government, the strength and power of which to defend itself no man can foresee, and therefore they provide so that we can not say—I mean the people who are in favor of this bill-if we come away other powers will swoop down upon the Philippine Islands and take possession of them, and instead of having the Filipinos next to us we shall have France, or England, or Germany, or some other great power adjoining us at our naval and coaling station, to be, we would hope, a friendly neighbor, but possibly an unfriendly and bad neighbor. So, therefore, to guard against that this additional condition is provided:

SEC. 6. That the President of the United States is hereby requested to negotiate an agreement between the United States is hereby requested to ne-gotiate an agreement between the United States, the said Philippine Archi-pelago, and Great Britain, Germany, France, and such other powers as he may deem best, providing for its perpetual neutrality and inviolability from all foreign interference, and also for equal opportunities of trade to foreign countries with said archipelago.

The President is requested to do this little, simple thing, just as though it were a little, simple thing-but an utter absurdity it seems to me, if I may use that term without intending to be disrespectful to those Senators who wrote it into this substitutethat the Philippine Archipelago, the United States, England, France, Germany, Russia, and all the other great powers are to join in a treaty making the Philippine Islands neutral territory and providing for an open door there for all the nations of the earth.

Only a short time ago we had under consideration in this Chamber the Hay-Pauncefote treaty, in which there was a provision that, if England and the United States agreed, all the other powers should be invited to adhere to that agreement. We struck that provision out, and the Senators who have drafted this substitute were foremost in that debate and with their votes to strike it out, because they said, and rightly, such was the sentiment of this body and of the whole American people that we did not want any unnecessary entangling alliances with other countries. It was enough to have an agreement with England about the canal, and we did not want to invite anybody else in. You

can make treaties easier than you can get rid of them.

Here we are now in what interest? In the interest of abandoning possession, the United States asking that all the great powers will join with us in an entangling agreement to the effect that that country, which we can not hold according to the theory of the advocates of this measure, shall remain neutral, and that they will not step in and take possession and govern, where, if we adopt this programme, we will have decided that we can not govern and with respect to which we shall have written ourselves down incapable. That is not all that is in this substitute, but that is enough.

Mr. BEVERIDGE. Before the Senator leaves that point, will

he allow me to suggest a further dilemma?

Mr. FORAKER. Certainly.

Mr. BEVERIDGE. I want to suggest to the Senator a further dilemma that grows out of the substitute, which is brought out by the comment the Senator is just making. In the condition stated by him, suppose the negotiation of this treaty were made; and suppose that some of the British interests in the islands, which are large, should become endangered and should appeal to their Government for protection, and that Government, obeying its obligations to its citizens, were to attempt to protect them; would we not be compelled, under such an agreement, to go to war with Great Britain to compelits observance of that neutrality?

Mr. FORAKER. Undoubtedly, either that or else submit to having treaty obligations entered into so violated without our

undertaking to call the violators to account.

Mr. BEVERIDGE. Or, if British subjects should loan money

to the Filipinos which they could not or would not pay?

Mr. FORAKER. There is just one more proposition in this substitute that I shall call attention to, though I have read enough to show that it is an utter impossibility, it seems to me, for us to enact such legislation and to leave there, having all these conditions complied with that are here proposed to be enacted.

Section 7 proposes—it may be the whole measure was intended to

lead up to this one very significant provision—

SEC. 7. That immediately after the President shall have proclaimed that all armed resistance to the United States has ceased in said archipelago, he is requested to proclaim full amnesty to all the inhabitants thereof for or on account of political offenses and the bearing of arms against the United States, and all Filipinos or inhabitants of said archipelago who have need deported shall be returned to the place from whence they were so deported.

That, Mr. President, would cover the case of Aguinaldo, who has borne arms against the United States, but is now a prisoner in the Philippine Islands, and it would also cover the case of Mabini, who was his secretary of state, I believe, but who is now dwelling temporarily in the island of Guam.

Mr. BEVERIDGE. And also Pilo del Pilar. Mr. FORAKER. Yes; and many others who would come within the same category.

I have said enough, for I do not want to unduly detain the

Senate with comments upon that measure or comments of any kind. I have said enough, I think, to establish the proposition I started out with—that we can not come away immediately or in the near future from the Philippine Islands, because of obligations of this character, and it is an impossibility to provide for the discharge of these obligations in the way here provided, ac-

cording to my judgment.

The result will be, Mr. President, if we can not come away with honor, we will not come away at all. The American people are not going to shirk any responsibility, much less will they undertake to shirk a responsibility if to do so they must do a dishonorable thing. They will keep their obligations. That means, Mr. President, in the language employed by the President only a few days ago, when he spoke in this city, that the "flag will stay put in the Philippine Islands." If we are to stay there, then we must govern.

Mr. CLAY. Mr. President, will the Senator permit me to ask

him a question?

Mr. FORAKER. Certainly.

Mr. CLAY. I understood the Senator to say that we have certain duties to perform in the Philippine Islands; that we owe it to those people to see that civil government is established there; that we owe it to the Spanish subjects to see that their property rights are protected, and that we owe it to Spain to see that our treaty obligations are carried out. Do I understand the Senator to say, by his last remark, that after we have carried out all of these obligations he thinks the Government of the United States should still then continue in the Philippine Islands, provided the people of the Philippine Islands do not want us there? Does he say that we should continue to stay there permanently after we have carried out all the obligations we owe to those people?

Mr. FORAKER. Mr. President, the question asked by the Senator from Georgia is a very natural one, one pertinent to this debate, and one that I thoroughly appreciate; so much so that I have already answered it in the progress of the remarks I have made. I answered it, Mr. President, when I said that no matter what may ultimately be done, we are compelled, by the considerations I have enumerated, to so long remain in the Philippines that it is idle for us to talk about the time when we are going to

come away or how we are going to come away.

I have always been of one mind in regard to this matter. I have always hoped that conditions might be such as to allow us to give those people the rights of local self-government, to give them their independence, if you please; but, Mr. President, what an idle thing it would be for this Congress to declare, as Senators have asked this Congress to do, that we propose next year to give them their independence, or ten years from now to give them their independence! Such promises could not bind anybody in the future. We are here to legislate for the present, looking at the condition as it exists now.

I say, Mr. President, that we are compelled to remain so indefinitely long in the Philippines that it is our duty to establish civil government there, and then, as we go along, in the years of the future, we shall be governed by what may be the results.

Mr. HOAR. Mr. President, may I ask the Senator a question? The PRESIDING OFFICER (Mr. Lodge in the chair). Does the Senator from Ohio yield?

Mr. FORAKER. Certainly.

Mr. HOAR. I will state my reason for asking it in one sentence—I will not interpose a speech or an argument, of course, in the Senator's very brilliant and interesting speech. The point which a great many people regard as important, and which, for one, I regard as absolutely essential, is whether the Senator and the people of the United States are willing to say that when all our treaty obligations have been fulfilled, and that people have established a government in freedom and in honor and are fit to maintain it and desire independence, we will then, without fixing any time, recognize their right to it, according to our old principles? I believe religiously that the affirmation of that duty, not fixing a time, would have prevented this war altogether and would at once end all resistance now.

I wish to ask the Senator from Ohio if he is ready, not to fix the time, not to abandon any obligation whatever, but to say that whenever the obligations are all fulfilled and the people desire an independence for themselves, which they are able to maintain. and have established or are ready to establish a government, we disclaim any right to hold them in subjugation for our benefit?

Mr. FORAKER. Mr. President, the question asked by the Senator is, I know, asked in all sincerity. I know how he feels upon this question, and I respect his feeling. At the same time, Mr. President, the question does not embarrass me in the least. This is not the first time that question has been asked in this Chamber or elsewhere. Repeatedly we have been so interrogated; and I answer now, as always heretofore, that, without regard to what may be any Senator's individual opinion, it is a most unwise and impolitic thing, in my judgment, for us to declare that at any time in the future, when we shall not be here to control the action of this Government, this Government will take action thus and so.

Mr. HOAR. If the Senator will pardon me-

Mr. FORAKER. Certainly.

Mr. HOAR. The point is—and I understand that is what we are fighting for—to affirm the right never to do it, and if we once say in any form of statement "we are not fighting for the right

to hold you in subjection," the whole cloud disappears.
Mr. FORAKER. Mr. President, the Senator interrupted me with a second question before I had concluded what I wanted to

say immediately in answer to his first question—

Mr. HOAR. I beg the Senator's pardon.

Mr. FORAKER. There is another reason, Mr. President. Who knows exactly what the conditions are with sufficient familiarity to act even to-day? The Senator from Massachusetts thinks he does: and yet the Senator recognizes that all these obligations to which I have referred must be taken care of. The Senator recognizes that they will continue us there for a long time. Does it not occur to the Senator from Massachusetts, and to every other Senator who is disposed to ask such questions, that during the five years or the ten years or the twenty years that we must of necessity remain, there will be great changes in conditions, and that long before the expiration of that time the people of those islands may want us to stay, by an overwhelming majority? It is contended, as I said in the opening of my remarks, by well-informed people that a majority of them do now want us to remain. I have confidence in our institutions. I believe the Filipinos will like them better as they become better acquainted with them.

Mr. HOAR. If we are holding a man lawfully in prison as a punishment, or under a right of detention, and he is struggling to get out, and we can end the whole trouble by telling him that we are not holding him as a slave, that is what I think we should do.

Mr. FORAKER. Mr. President, again the Senator interrupted me before I had concluded. I had a third answer to him which I will now make. He thinks that would settle the difficulty. His proposition is that we shall say, "In the indefinite future, whenever you have done thus and so, established a government, given satisfactory assurances that you will do all these things, then we will withdraw and allow you to be independent."

Does not the Senator recognize—it seems to me he must, as it is so plain to my mind—that that will be only an invitation to the Filipinos who are making contention against us to demand that they be allowed to proceed, and that they do this and that and the other, and insist that we are not keeping faith, or, although acting in good faith, that the guaranties they may have given

are sufficient, when we think them insufficient.

It seems to me, Mr. President, we must look at the situation as We have the Philippines. We have taken title. We have possession. We have established government. We are establishing law and order. They are ours—ours against all the world; and the thing for us to do is to set that house in order before we talk about making a disposition of it. We are doing our part, and, as I believe, doing it as well as we know how, laboring honestly and faithfully to accomplish just and proper results, and it will be for those who come after us in the Congress of the United States—for a great many will come after us before this question is acted upon—to determine what shall be done by the Government of the United States; and when they come to take action the conditions existing in the islands, the feeling of friendship or of hostility, whichever the case may be, of that people will undoubtedly have much to do in determining the Congress of the United States as to what action it shall take.

Now, Mr. President, passing that by, as I have said, we are to remain there. By that I do not mean forever. It may be we will remain forever, but while not necessarily forever, yet we are to remain there so indefinitely that there is no use to qualify the term. Therefore it is necessary for us to legislate, and therefore we come to consider a bill. In that connection arises the question, upon the speeches made in opposition to the measure by other Senators, what our policy is, what it has been, and what it

is to be.

I do not want to go into this at great length; but the Senator from Tennessee [Mr. Carmack], in a speech made here two or three days ago—last Thursday, I believe it was—after reciting the cruelties and the expenses and the other disadvantages to which we are subjected by remaining in the Philippines, said:

No. Mr. President, the facts alleged by Senators when they tell of the terrible hatred, the terrible cruelty which the Filipinos have exercised, and the remorseless retaliations, as they choose to describe them, which have been perpetrated upon them, although we have slaughtered people and tortured people who have committed no wrong, show that we are entering upon a task that means a century, perhaps three centuries, of constant bloodshed, of war, and of insurrection, that means the shedding of God only knows how much American and Filipino blood and of how much treasure to be wrung from the American people, and all, as I have said before, for no other purpose except that a few carpetbag thieves may have unlimited license to plunder the people of the Philippine Islands. That is what we are asked to do. We are

asked to assume all that burden, we are asked to foot the bill, we are asked to tolerate murder and massacre and torture for no other purpose except that a few carpetbaggers may have the opportunity to rob the people of the Philippines as they used to rob the people of the Southern States.

That, sir, is the only question that is presented to the American people.

The senior Senator from South Carolina [Mr. Tillman], in the course of his speech, made this statement:

The game here-

Referring to this bill—

The game here is simply to open the islands to the exploitation of those who are on the ground floor and have already mapped out their mines or their forests or their other holdings, which they will speedily obtain through this instrumentality as soon as you shall have passed the bill.

I do not intend to stop, Mr. President, to comment on the character of that language. I know that neither Senator meant to have anybody understand that any member of this Senate is interested, financially or otherwise, in the development of the Philippine Islands, or that any Senator has any commercial interest there. We are all interested within the term "otherwise," because we are interested to have that possession of the United States made prosperous. Neither Senator intended, I know, to impute any improper motive to any Senator in voting for this bill, as some of us propose to do; and yet, having used that kind of extravagant language, it is necessary, or at least it makes it quite appropriate, that I should make some remarks upon the policy of this Government in the Philippine Islands.

Mr. TILLMAN. Will the Senator permit me to interrupt him? The PRESIDING OFFICER. Does the Senator from Ohio

vield?

Mr. FORAKER. Certainly. Mr. TILLMAN. I am glad the Senator understood me so perfeetly. Some people do not, or pretend they do not, though I try to be very plain and frank. I have no idea that any man on this floor is engaged in any scheme of spoliation there, or that there is a solitary Senator who is interested in any such thing. It is my opinion only; I have no proof; I am only judging by the conditions; but my charge was that the policy of the Republican party in seizing those islands and conquering them was to provide a means for the investment of capital, for trusts, for the organization of combinations of wealth to go there and obtain possession of sugar plantations, and all of the elements of gain, and have the Army protect them in the use and the enjoyment and the getting of wealth, while the masses of the American people would pay the expenses, and a few capitalists would enjoy the emoluments or the benefits. That was my purpose. I believe it, so help me God.

Mr. MASON. Mr. President— The PRESIDING OFFICER. Does the Senator from Ohio

yield further?

Mr. MASON. Mr. President, I was about to ask the Senator from South Carolina a question, but I will not interrupt the Senator from Ohio.

Mr. FORAKER. I yield if the Senator wants to ask a question. Mr. President, I did understand the Senator from South Carolina. I have served in this body a good while with him. Everybody acknowledges his ability. Everybody acknowledges his frankness. Hardly anybody approves his discretion. [Laughter.]

Mr. TILLMAN. The people of South Carolina have seemed to

approve it.

Mr. FORAKER. Well, I should not have made the remark; I withdraw it.

But, Mr. President, what these Senators intended to say was that our policy was one of greed and selfishness in acquiring the Philippines and in remaining in the Philippines; and I say that

invites me to make some remarks on that point.

I want to say, Mr. President, that we not only went to the Philippines in the way we are all familiar with—for the purpose of striking a blow at the enemy with whom we were at war—but we went to the Philippines as a matter of absolute necessity as well. It was a matter of necessity as well as opportunity and duty to go to the Philippines as we did. What I mean by that is this—something that most people seem to lose sight of in discussing this Philippine question. We did not start into the war with reference to the Philippine Islands. We wanted to liberate Cuba; but when we passed our resolutions of intervention, Spain answered with a declaration of war, and that let down the bars everywhere, and it produced unforeseen results everywhere by legal operation. I mean by the operation of international law.

A great deal has been said here in criticism of what Senators have been pleased to call the commercial side of this matter. Mr. President, the commercial side had a great deal to do with our acquisition of the Philippines. It had a great deal to do with our retention of the Philippines, and it has a great deal to do with our continued retention of the Philippines. But how? In this way. For many years we have been building up a trade with the Far East, with Japan and China and Korea, the Straits Settle-

ments and Oceania.

Our commercial interests in the Far East long ago became so important that this Government adopted, as a settled policy, the retention of a squadron of our Navy, called the Asiatic Squadron, in those Asiatic waters. The Asiatic Squadron was not there to make war upon anybody. It was there to protect American interests, whether on the sea or on the land. Americans have been investing their capital in business enterprises in Japan and in all these countries. We have millions invested there. We were keeping our Asiatic Squadron there and have been for years, in time of peace, only that it might be there if it should be needed to protect the interests it was designed to protect. When this war broke out Commodore Dewey, in command of the Asiatic Squadron, was in the harbor of Hongkong. Now, what happened?

The declaration of war set certain international laws into operation. According to international law, the war ships of a belligerent nation can not remain in a neutral port longer than twenty-four hours. It is an act of hostility against the other belligerent for any neutral to allow the war ships of a belligerent to remain in her ports. Therefore it was that when the United States and Spain declared war against each other international law required of Admiral Dewey that he should immediately get out of that harbor of Hongkong. Where was he to go? We had no harbor in all that part of the world, no port in which he could stay over night. He had to sail out on to the sea, and he could not enter any other port except only for the purpose of getting necessary food, supplies, and coal—supplies to enable him to reach our nearest home port. He happened to be pretty well supplied just at that time, so he did not have to think about getting into any neutral port.

But, Mr. President, there was no American port where he could

go. Every neutral port was closed against him, and he had either to sail out, as best he could and as long as he coll, on the bosom of the sea, or he must sail to San Francisco, our nearest home port, some six or seven or eight thousand miles away. If he went to San Francisco he could not protect the interests he had been sent into the Orient to protect. We had thought it necessary to have him there in time of peace. Much more necessary was it to have him there in time of war, and particularly when we were at war with a power that had an armed navy at hand and had

large territorial possessions near at hand.

That was the situation in which we were. Dewey was there. We wanted to utilize him in that war. If he had come to San Francisco he not only would have abandoned the interests he was sent there to protect, but he also would have come to a port where it would be an utter impossibility for him to be utilized in connection with the prosecution of the war against Spain. What was he to do? There was an opportunity and there was a necessity. The opportunity was at Manila and the necessity was also to go there. He could not go to another neutral port. He had to go to some port of our own or to some port of the enemy. The port of Manila was just where it would seem it ought to be under all the circumstances, having reference to the interests the Asiatic squadron was in the East to protect, and having reference to the future development of our commercial and other interests in the Far East.

And so the President ordered Commodore Dewey to sail at once from Hongkong, within the twenty-four hours that international law allowed him, and go to Manila and search for and find the Spanish fleet, and either capture or destroy it. President was a kind-hearted sort of man, and he gave the Commodore an option about it. [Laughter.] He found it, and he destroyed it. Then what happened? Why, Senators have insisted in this debate that he ought to have at once ordered "up anchor" and away; that he ought to have sailed out of Manila as

soon as his work there was done.

Mr. President, where would he have sailed to? Nobody has stopped to tell us. He could not have sailed out of Manila, after the Spanish fleet was destroyed, and gone back to Hongkong, where he sailed from when he started for Manila. Neither could he have sailed into and rested in any other neutral port of the world. All he could do legitimately was to stay in Manila, or, if he abandoned that, and abandoned at the same time the interests which he had been sent there to protect, he might have sailed all the way back to San Francisco, where he could not be of any help in the further prosecution of the war. That would have been the supremest folly.

Mr. President, it was a necessity, as well as an opportunity, that took us there, and it was necessity that kept us there. Why should we not stay there? We had been all the years of our governmental life without any port in the Orient, and here the fortunes of war, at the very opening act of it, had given us a port, and one of the best in all that far eastern country—a port that was at the very threshold of China, Japan, and all the many, many millions of people with whom in the future we are to carry on commercial business. Why should we not keep it?

But there was another reason why Dewey stayed at Manila. The destruction of the Spanish fleet was not the end of Spanish sovereignty there. If Dewey had come away there was no reason why the Spaniards should not have sent other ships there to cooperate with their army to retain their possessions and to harass and annoy and destroy our commerce in the Far East. And so it was, Mr. President, that it was a wise thing for Dewey to go to Manila and a wise thing for Dewey after he had taken Manila and destroyed that fleet to stay there until the end of the war. That did not take long. It came almost before we knew it; almost

before we were looking for it.

I mention that particularly now because it comes to my mind that a few days ago we had a colloquy in this Chamber when the question of commercialism came up, in the course of which some Senator called attention to the fact, as though it were the discovery of a great crime, that on the 13th day of August, 1898, the President of the United States, through the Secretary of the Navy, had sent a cablegram to Admiral Dewey calling upon him to furnish information about the Phi lippine Islands and the Philippine people. I have the telegram here. I sent and got it in order that I might put it in this Record if I should happen to think of it, as I have thought of it.

Here is the telegram he sent him: Dewey, care American consul, Hongkong.

This is dated August 13, as I understand it. I have not the date here. It was given as the 13th in the colloquy we had a few days ago about it. I will have it looked up and if that is not the correct date I will insert the correct date, but I gave directions for the cablegram of the 13th to be brought me, and this was brought me. Here it is:

[From Navy Department Report, 1898, Appendix to Navigation Bureau Report, pp. 122, 123.]

AUGUST 13, 1898.

DEWEY (care American consul), Hongkong:

The President desires to receive from you any important information you may have of the Philippines, the desirability of the several islands, the character of their population, coal and other mineral deposits, their harbor and commercial advantages, and, in a naval and commercial sense, which would be the most advantageous. If you have other information which may be of value to the Government in their negociations, the President may desire your presonce here. If he should request you to come, take quickest route of trayel.

ALLEN, Acting.

On the day before, Mr. President, the protocol had been entered into. I do not wish to read that in full, but I do want to publish it in full as a part of my remarks, and I ask leave of the Senate

that I may do so.

Mr. President, in this protocol, entered into on the 12th day of August, 1898, it was provided as follows as to the Philippines. After providing that the Spanish should withdraw from Cuba and that Porto Rico should be ceded to us, Article III provided as follows:

The United States will occupy and hold the city, bay, and harbor of Manila, pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines.

I ask that the whole of the protocol, also the treaty of peace following, may be published in the RECORD. [See Appendix.]

Now, why was it that there was this indefinite provision in the protocol? When you understand that you will understand why the President sent this cablegram that has been referred to. As I said a while ago, Dewey went quite unexpectedly to the Philippines. It was only a hundred days from the beginning until the end of the war. When the end came, he having remained there,

it was necessary that we should deal with respect to the Philip-

Every Senator will remember that the newspapers during that hundred days of the war's progress, in addition to registering the progress of our Army and Navy elsewhere, were busy discussing the Philippines, and there were all kinds of ideas with respect to the Philippines. Very few of us knew enough about the Philippines to know what we wanted to do with respect to the Philippines. Very few of us, to be frank about it, had ever heard of the Philippines, except casually, until that time, and during the progress of the war we had not had an opportunity to study them satisfactorily.

So when the war suddenly ended the President was confronted with the question, "What now shall be done? What shall be the terms of peace?" He had no difficulty in determining as to Cuba; he had no difficulty in determining as to Porto Rico; but the Philippines was a different proposition, and so having all kinds of advices, some telling him to keep the Philippines, some telling him to come away and abandon the Philippines, some telling him to keep only a naval station or a coaling station or a military reservation, and some telling him to keep a whole island, he concluded that by the terms of the protocol he would refer to our commissioners the responsibility of determining what should be done with the Philippines, for the reason that they would have opportunity to acquire full information and act intelligently, something that it was impossible for him to do at the time.

Therefore he provided in this protocol what should be done as to everything else, but as to the Philippines he said the commissioners, as by this protocol provided, shall determine, when they meet in Paris, what shall be done with the Philippines.

The President had a doubt about it. President McKinley was a careful, thoughtful, and conservative man. He did not want to commit himself to the acquisition of the islands until he knew what we were acquiring; whether it would be wise or not. It is no secret, but a truth known to everybody, that he came, conservatively and gradually and very reluctantly, I think I may say without overstating the case, to the conclusion that our interests required that we should take all the Philippines just as we did take them.

But the day after the protocol was signed—and this shows the industry of the man—he directed that information be immediately gathered as to the whole of the Philippines—information as to the harbors, information as to coaling stations, information as to the inhabitants, and information as to which of the islands would be preferable if we should conclude to prefer one and not take all of them—and he directed that in that connection reference should be had to the naval and commercial interests of the United States.

Was that unnatural? Was not that proper? Was there any evidence of selfish greed in that? Was there any evidence of a desire there to acquire a theater for exploitation, as has been said here?

Why, Mr. President, as I have been pointing out, nobody appreciated more keenly than President McKinley, who sent him to Manila, that Admiral Dewey was in the Orient to protect commercial interests, that he had been kept at Manila to protect commercial interests as the war progressed, and that it would be necessary for us through all the years to come during which we

are to trade with the Orient to keep a squadron somewhere in the Orient. He remembered that we had found out how invaluable to us in time of war it was to have a port in which our squadron

could stay.

The next time we have a war and have a squadron in the Orient, if we surrender now the Philippines and have no port there, our enemy may not have a port that we can capture, and then what will we do? We shall do just what Dewey would have been required to do if the Philippines had not been there. He would have come to the nearest home port and probably would have rendered no service whatever in the prosecution of the war. But, Mr. President, the result of these negotiations, that we are all familiar with, was that we concluded to keep the Philippines. I do not know all that operated upon the minds of Senators, when they voted to ratify the work of our Commissioners; but I have always believed that in acquiring the Philippines by that treaty, that in ratifying that treaty, that in taking possession, that in continuing to occupy and hold and govern the Philippines, we have been acting not mistakenly or unwisely, but just the opposite.

Now, Mr. President, that is how we came to get the Philippines. Is there any excuse in view of this record for such statements as I have called attention to, that our policy in the Philippines.

pines is merely one of exploitation?

There is a record on this subject that, it seems to me, is sufficiently conclusive to answer that better than anybody else can answer it. On the 21st day of December, 1898, before the treaty was ratified, President McKinley issued a proclamation. I have already referred to it.

I here ask leave that it may be printed in full as an appendix

to my remarks. [See appendix.]

I call attention to this for the reason, Mr. President, that on the 21st day of December. 1898, long before the clash came between our forces and the Filipinos and long before the treaty was ratified by the Senate, President McKinley clearly and unmistakably laid down the policy that he would pursue, and that policy was laid down by him in this document, was known to every Senator in this Chamber, and was known to every intelligent man throughout the length and breadth of this land.

In this document President McKinley, speaking with all kindness to the Filipines as to what our disposition was with respect to them, nevertheless plainly stated that all who might offer resistance to the authority of the United States would be dealt with by the strong arm of power, and their subjection to our authority would be enforced, not by unnecessary use of force or unnecessary harshness, but by all necessary employment of force and power.

His concluding sentence was:

In the fulfillment of this high mission, supporting the temperate administration of affairs for the greatest good of the governed, there must be sedulously maintained the strong arm of authority to repress disturbance and to overcome all obstacles to the bestowal of the blessings of good and stable government upon the people of the Philippine Islands under the free flag of the United States.

So I say, Mr. President, when subsequently, on the 6th day of February. in this Chamber, we voted by a two-thirds vote to ratify that treaty, every Senator here knew what the policy of the Administration of William McKinley was to be with respect to the Philippines and in the Philippines. He laid it down in that document. I have heard Senators in this Chamber criticise

President McKinley for issuing that document at that time, saying that he was anticipating the ratification of the treaty, and that his declaration that our authority should be supreme in the Philippine Islands was premature, and that it had much to do

with inciting the Filipinos to revolt.

I do not agree with that idea. I think it was a wise thing for him to do, and I think he did it hoping that he would obviate all difficulties that might otherwise arise. But however that may be as to the criticism that was made, the fact remains, and that is what I am showing, that every Senator here had that document before him when he ratified the treaty, and the newspapers throughout the country had the document before them.

Now, Mr. President, we had the war also before us. The newspapers of this country throw a very interesting light on the situation as it then existed. "Lest we forget," I want to call attention to some of the editorials of the leading Democratic newspapers of this country. At that time, Mr. President, the American people were unanimously patriots and not partisans. There was very little partisan expression in regard to this question. I want to show, in calling attention to these newspaper editorials, that President McKinley was not only acting patriotically and unselfishly, as his own official papers show that he was, but that he was acting in accordance with the most enlightened and most influential Democratic sentiment of this country as represented by the Democratic journals throughout the country.

On the 6th day of January, 1899, the New York Journal, which I put at the head because it has appeared to be the organ of the Democratic party for the last five or six years, said what I shall read in an editorial entitled "The President to the Filipinos." I quote this to show that this document which I have just put into the RECORD from President McKinley, dated December 21, 1898, was discussed throughout all the country. I have heard it said that nobody knew of it until after the treaty of peace was

ratified.

[New York Journal, January 6, 1899.] THE PRESIDENT TO THE FILIPINOS.

President McKiuley's proclamation to the people of the Philippines, through General Otis, ought to insure their hearty cooperation in our work of regeneration.

It is beyond reasonable doubt that the inviting prospect of peace, order, liberty, and prosperity under the American flag will be welcomed with joy by the masses of the Filipinos. It is to be hoped that it will be gracefully accepted by all. But if it should happen that an ambitious minority, intoxicated by the desire for power, should attempt to prevent that restoration of peace and order which is an essential preliminary to any practical training of the Filipinos in the art of self-government, it would become necessary to repress their pernicious activity with such firmness as the case might demand. And if, in performing this work of civilization, American blood should be shed the position of our antiexpansionists would not be enviable. The first shot fired against the American flag would make domestic opposition to the measures of our Government overt treason. And those who practice treason find small indulgence in any country.

find small indulgence in any country.

That is the way that Democratic organ was talking the 6th day of January, 1899, a month before the fighting broke out.

On the 11th day of January the Journal had this editorial:

[New York Journal, January 11, 1899.]

TRAITORS AT HOME.

For the unfortunate situation in which the country finds itself in the Philippines we have exclusively to thank the "small Americans" who at every step have treasonably obstructed the advance of the United States.

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If bloodshed shall come of all this, and the rule of American civilization in the Philippines shall begin with a needless sacrifice of American and native lives, it will be these unpairiotic mischief-makers on whom the blame will rest. And if they continue their pernicious propaganda it will be something more than mere moral odium that they will bring upon themselves. "Treason against the United States," says the Constitution, "shall consist

only in levying war against them or in adhering to their enemies, giving them

aid and comfort.'

The small Americans have done their worst to turn Aguinaldo and his followers from friends of the United States into enemies. If, after accomplishing this devil's work, they "adhere" to their dupes, they will bring themselves within the strict constitutional definition of treason. If we are compelled to use stern measures with Aguinaldo, the place to begin will be at home.

On the 13th day of January the New York Journal published this as an editorial:

> [New York Journal, January 13, 1899.] FRIENDLY ADVICE TO THE PRESIDENT.

From the remarks of some of your friends, Mr. McKinley, it might be imagined that you were preparing to "hedge" on your Philippine policy. If you have any such idea, let us give you a bit of friendly advice.

Don't be a coward.

Recall a little recent history. You went into the Spanish war desperately against your will.

It took you a long time, too, to make up your mind what to do with the Philippines. But at last, after months of hesitation, you took, or seemed to take, a firm stand on that question, and the elections showed the advantage

of your position.

Don't be alarmed now by the outcries of a few moss-grown antiexpansionists. The noise that comes from that quarter is altogether disproportioned to the number of throats from which it proceeds. The mass of the

American people is for expansion.

February 7, three days after the fighting had commenced and the day after the treaty of peace had been ratified, the Journal published this editorial:

> [New York Journal, February 7, 1899.] NO MORE NONSENSE IN THE PHILIPPINES.

Aguinaldo has relieved us of all embarrassment in the matter of our dealings with the Philippines. To the unprovoked attack upon our forces at Manila while we were exhausting every effort to reach an amicable adjustment with the Filipinos, and while our commission of inquiry was actually on the way, there can be but one answer.

Order must be restored in the Philippines. The men who have taken our forbearance for weakness must be taught their mistake. American authority must be established at once beyond challenge throughout the archipelago.

Againaldo has put an end to American uncertainty. He has shown his unfitness to rule the Philippines. A leader that lacks the self-control to refrain from breaking the peace in the midst of negotiarious is not the sort of statesman to establish a stable government. If we withdrew from the Philippines now the native leaders would be fighting among themselves within six months, and all the colonizing powers of Europe would be scrambling for the islands. bling for the islands.

What a godsend it is that Dewey is at Manila.

"The native leaders would be fighting among themselves within six months," said the New York Journal on February 7, 1899, if we should withdraw from there. That was true then without a doubt. It is equally true now.

On the 24th day of February the New York Journal published

the following:

"NO MORE ROSE WATER IN THE PHILIPPINES."

I will read this, Mr. President, to show that President McKinley, in concluding that we should acquire the Philippines, and our commissioners in concluding that we should acquire the Philippines, and the Senate of the United States in concluding by ratification that we should acquire the Philippines, were all acting honestly, patriotically to carry out a great purpose of the American people, confined not to the Republicans, but shared in by Democrats as well. The leading organs of the Democratic party

are the ones from which I shall read, and only those.

I also read it to show that at the time when it was written it was foreseen that there would be war of long duration, connected with which there would be brutalities and hardships no doubt, for the war had already begun and the character of it was developed and the character of the people whom we were fighting had been established.

# [New York Journal, February 24, 1899.]

NO MORE ROSEWATER IN THE PHILIPPINES.

It must be plain to the blindest that the time for a policy of conciliation in dealing with Aguinaldo's hordes of bandits is past. Men that deliberately plan massacre are unfit to govern themselves, much less others. And it must never be forgotten that it is not a question of self-government that forms the essence of the issue between Aguinaldo's crowd and the American authorities, but a question of deministic but a question of deministics. authorities, but a question of dominion.

Please give good attention to this:

Aguinaldo and his followers are simply Indians and must be dealt with as we should deal with a tribe of renegade Apaches. We shall not follow the Spanish example of lining up the insurgent leaders on the luneta of Manila and shooting them in the back, but we must put them where they can do no more harm. The best place for Aguinaldo will be a cell in some secure American penitentiary.

What a place for a George Washington! [Laughter.]
Mr. President, all that from the New York Journal. call attention to the following editorial published at that time by the Cincinnati Enquirer:

[The Cincinnati Enquirer, editorial, July 25, 1898.]

Aguinaldo will have to behave himself. The country will take no backward step. The Spaniards have hinted that we are dealing with people that will have to be exterminated to keep them from making trouble. Well, we can not stop now, even at extermination.

General Smith, even if correctly reported, has not gone any

further in the year 1902 than the Enquirer went in 1898.

Now, here is the Louisville Courier-Journal. I want to run rapidly through the country. On February 6, 1899, the Courier-Journal published this editorial:

> [Louisville Courier-Journal, February 6, 1899.] THE FIRST FRUITS.

Yesterday's reports of an attack by the Philippine insurgents upon the Americans at Manila have been confirmed. The fruits of the policy so sedulously cultivated at Washington by the opponents of the American treaty have ripened before they were expected to ripen by those who are responsible for them.

In order to beat the treaty negotiated between this country and Spain Aguinaldo has been encouraged in every way possible by a minority of the

United States Senate.

The issue of force under such circumstances was hardly avoidable. There can be but one result, which will be the prompt and complete assertion of our authority over Aguinaldo and his Tagalos as it was asserted over the Spaniards. We know how to deal with the misguided and maliciously instigated insubordination of the Filipinos. We shall put them down at the muzzle of the guns behind which are Americans who have no constitutional pretext and instrument for turning upon their own country when American honor and interests are at stake. Would that we could deal as effectively within constitutional lines with those who are prostituting their constitutional privileges to endanger the welfare of their country and sacrifice the lives of their countrymen merely to play out their petty game of selfish and challow rollivies. shallow politics.

That is pretty nearly as bad as anything the Senator from Tennessee [Mr. CARMACK] has said.

Now, on the 6th day of February, the day we ratified the treaty, two days after the fighting had commenced at Manila, the Atlanta Constitution published this editorial:

[Atlanta Constitution, February 6, 1899.]

VINDICATE AMERICAN STRENGTH.

In the light of the thrilling news from Manila, there now remains but one course for the American Government to pursue, and that is to conquer the forces of Aguinaldo.

forces of Aguinaldo.

Whatever doubt may have existed in regard to the ratification of the peace treaty between Spain and the United States must disappear before the treachery of the wiry Philippine insurgent, who has already proven himself to be as untrue to the Americans as to the Spaniards. As the successors to Spanish authority in the archipelago we can not afford to falter in the face of this challenge, thrown out to an army whose purpose was friendly, and to a Government which has never yet dealt unjustly with those who have had dealings with it. In our own way and in our own time we can deal with the question of local government in the Philippines, but as long as an armed foe stands in the way the columns. stands in the way the only work ahead of us will be to vindicate the authority of the flag.

The American Government will always do its duty by peoples with whom The American Government will always do its duty by peoples with whom it comes in contact. It is too great and too magnanimous to act in any other way; but it can never retreat in the face of such defiance as that which has shed American blood without cause in the recent assault of the insurgents. The treaty must be ratified. The American flag must be upheld. After that we can take up the question of the self-government of the Filipinos.

Next I have an editorial here from the New Orleans Picayune of January 8, 1899. It had a long editorial on the President's instructions dated December 21, 1898, which I have already put into the RECORD. The paper, in discussing the situation in the Philippines, proceeds to say:

[New Orleans Picayune, January 8, 1899.]

SITUATION IN THE PHILIPPINES.

proper government in the islands

Granting that we have made a mistake in absorbing the Philippines, the die has been cast, and we are now meally responsible for the maintenance of good order in the archipelago. It would be folly to recognize the insurgents, who are incapable of self-government, and it would be worse the meantenance weakness to temporize with them. A stable government must be inaugrated at once, and whatever resistence is encountered must be put down with a strong leand, no metter at what each with a strong hand, no matter at what cost.

On February 6, after the fighting had commenced, the Picayune published the following:

[New Orleans Picayune, February 6, 1899.]

THE WAR IN THE PHILIPPINES.

The long-expected clash in the Philippines between the American troops and the native insurgents under Aguinaldo has occurred. The natives were the aggressors, and, as a matter of course, the American troops were victorious, driving the insurgents back and occupying their positions.

This action of the Filipinos should settle definitely the immediate policy of this country in the archipelago. It will now be necessary to crush the insurgents and firmly establish American control before the future form of government for the islands can be for a moment considered. All negotiation and temporizing would now be time wasted. The Filipinos themselves have shown that they were not willing to calmly discuss the situation, but preferred to take the chances of a resort touring. This saction proclates further negotiation until the insurgents have been thoroughly subdued and made to feel that further resistance to American control will be hopeless.

This outbreak by the islanders is the direct result of the noisy declaration This outbreak by the islanders is the direct result of the noisy declaration in Congress demanding the immediate and timeonditional declaration of the independence of those people and the abandonment of the country to their control. Those semisavages, hearing of the violent expressions in their behalf that were daily poured out in the United States Senate, and being assured that the treaty could not be ratified unless an express provision were made for their immediate liberty and independence, determined to supplement the services of their American allies by making a desperate attempt to drive out the western invaders.

This attempt was not successful, but it means that war is now a reality in

a country where it was supposed that peace had been established.

That war will be no bagatelle. The savage audacity and desperate determination of the Filipinos to drive out the Americans are seen in their attack upon the forces at Manila, where the great body of our Army and Navy are posted. This act means that those people are going to omit no opportunity to inflict injury on the Americans, and the serious consequences that are to be expected from their desperate warfare must be directly chargeable to the active demonstrations made in their behalf in the Senate of the United States. If this criminal paltering and temporizing with these Asiatic barbarians shall go on, there will be a repetition, only vastly more frightful and horrifying, of the conditions which resulted, some thirty-odd years ago, in the attempt by the Congress of the United States to set up 4,000,000 of negroes in these Southern States over the whites, who had been their former masters.

these Southern States over the whites, who had been their former masters.

# On the 25th day of February the Picayune published this:

[New Orleans Picayune, February 25, 1899.]

SITUATION IN THE PHILIPPINES.

The advices received from General Otis, commanding our troops at Manila, indicate that the situation in the Philippines has become very serious. sic slc 280

It must now be apparent to the most enthusiastic annexationist that thicountry has a serious campaign ahead of it in the Philippines. The entire archipelago will have to be subdued, and our generals can not expect to follow the usual methods of civilized warfare.

I cite this editorial because it seems to have some relevancy in a prophetic kind of way to that which has been so much commented on in the progress of this debate.

The Filipinos are Asiatics, and will naturally follow the oriental methods of deceit and treachery. No Filipinos can safely be considered noncombatants, but all must be regarded as hostile and treated accordingly.

We had read here the other day an order issued by General Bell, commanding the Third Brigade, I believe it was, in the Philippines. In the course of that he gave direction that all Filipinos should be regarded with distrust, should be treated as though they were enemies until they knew to the contrary, and for that he was most bitterly condemned in a speech that was made at the time when it was offered. But this newspaper man, the editor of the New Orleans Picayune, seems to have foreseen all this.

But all must be regarded-

He says-

as hostile and treated accordingly.

While it may be necessary to resort to some harsh measures in the Philippines, it is too late to turn back. No matter what the future of the islands may prove, this country must now subdue the people and establish for them a reasonable government. Negotiations will be of no practical value; hence a vigorous and active campaign will have to be waged

Next, I have a quotation from the Nashville American. I call attention, in the first place, to one which appeared on the 2d day of January, in which was discussed in a very able and a very

elaborate way the order, although the editor claimed that he had not yet seen it, which was issued by President McKinley to the Filipinos, to be promulgated on that island by General Otis.

[Nashville American, January 2, 1899.]

GOVERNMENT FOR THE FILIPINOS.

President McKinley has cabled to General Otis a proclamation for promulgation in the Philippines, giving the conditions under which the United States Government takes control, and the intentions of the military occupation.

If disorders should arise, if factions cause fighting, if the Filipinos try to annihilate each other, or to make half a dozen antagonistic governments in as many islands, the proclamation warns them that radical measures will be resorted to by the United States to maintain law and order.

On January 31, 1899, the Nashville American said editorially, speaking of the condition in the Philippines:

We must make them know that our power is supreme, otherwise we can not give to them the blessings freedom and individual liberty have in store. The United States can not and will not yield to Aguinaldo. Aguinaldo must and will yield to the United States. The betterment of the condition of all the Filipinos depends upon acquiescence in the plans of the United States. The situation is forced upon us by the arbitrament of war. Filipinos must be made to recognize this fact. If peacefully, happier will be their lot; if force is required to establish this fact, the worse it will be for Aguinaldo and his misenided followers. his misguided followers.

On February 6, 1899, the day we ratified the treaty, speaking of the fighting that had commenced on the 4th in the Philippines, the Nashville American said:

### FIGHTING AT MANILA.

What has been expected, but hoped to be avoided, has occurred, and Mawhat has been the scene of a series of conflicts between the United States Army and Navy and the Filipinos. The Filipinos brought on the battle, forced the fighting, and were defeated, not, however, without inflicting a loss of perhaps 20 of our brave soldiers killed and 125 wounded.

We did not desire to fight the Filipinos; did not go to Manila to make war upon them, but to drive out the Spanish and bring about a condition of law, liberty, and order. Doubting our honesty of purpose, they attacked us. We fought and whipped them, and if they attack again the whipping will be se-

Peace treaty or no peace treaty, the attack upon the American Army, if not already sufficiently avenged, will be further avenged unless Aguinaldo surrenders to keep from being smashed.

On the 11th of February, 1899, the same paper published the following editorial:

DEPOSE AGUINALDO.

Aguinaldo must accept the situation. If he will not retire peaceably, he must be deposed by force and exiled. We can not now pull out from the Philippines with honor if we desired to do so. And, being required by circumstances never dreamed of a year ago to occupy the Philippines, our occupation must be made dominant, and Aguinaldo must be made to submit.

From a so-called president he has now developed into a self-constituted dictator, issuing declarations of war, setting aside the constitution so recently promulgated, and ordering the congress to obey his mandates. Such actions can not be tolerated and order peaceably maintained. One of our chief objects is the peaceable maintenance of order and the rule of law. If it requires troops more than General Otis has to bring this about, reenforcements should be sent him at once.

Mr. President, the policy thereby so clearly set forth is the policy which this Government has been ever since then pursuing, which it is to-day pursuing, and which it proposes to continue to pursue until Aguinaldo and every follower of his in the Philippines shall submit, and until law and order and government shall be established throughout every province and every division of the islands.

Mr. LODGE. Mr. President, will the Senator allow me? The PRESIDENT pro tempore. Does the Senator from Ohio vield?

Mr. FORAKER. Certainly.

Mr. LODGE. I have just come into the Senate Chamber, and

I want to ask the Senator from what he is reading?

Mr. FORAKER. I have been reading editorials from leading Democratic newspapers, published shortly before, at the time, and shortly subsequent to the ratification of the treaty with Spain, in which they upheld the policy that was pursued by President McKinley and the Senate in the acquisition of the Philippine Islands and in the efforts that we have been making to govern the Philippines, to suppress the insurrection, and establish law and order.

On the 6th of February, 1899, the Memphis Commercial-Appeal

published this editorial:

### WAR IN THE EAST.

WAR IN THE EAST.

Word comes from the Philippines that the insurgents have attacked the Americans, and, after a flerce battle, have been repulsed.

This assault was incited by those misrepresentatives in Congress who have been blatherskiting about tradition and viewing with alarm when the Army reorganization bill was up and when the treaty was being considered. The Senatorial junta has done all in its power to encourage the Filipinos and to bring an outbreak, and no doubt they are highly satisfied with the result of their work. their work

their work.

Twenty killed and six times twenty wounded on the American side ought to be a sufficiently sanguinary record.

Whatever may have been the views of these statesmen in the past, there can be no longer room for division. Ratification of the treaty is now an instant necessity. To oppose it further or in any way hamper the Administration at Washington were disloyalty to the flag.

The treaty should be ratified before the sun goes down to-day and Aguinaldoand his followers given to understand that they falsely represent American string that the talk of running every from responsibility in any next of

can sentiment who talk of running away from responsibility in any part of

On the 7th of February, 1899, the Memphis Commercial-Appeal published the following editorial:

#### THE TREATY RATIFIED.

The American people drew a long sigh of relief yesterday when the announcement came that the Paris peace treaty had been adopted by a vote of 57 to 27 voting, or a vote of 61 to 29, including the absent and paired.

What of the future? The immediate future of the Philippines is not complex. Spain will be paid \$29,000,000, and we will have done with her. These who are warring against the country's flag in the archipelago must be seduced and reduced to submission. A stable government must be formed and law and order established. This may take time and trouble, but time and trouble must not be corridated where duty is involved. must not be considered where duty is involved.

On the 8th of February, 1899, the Memphis Commercial-Appeal published the following editorial:

## OUR FUTURE POLICY.

Antitreaty men on both sides of the House must not bother us 2. Antitreaty men on both sides of the House must not bother us just now with their clamor for a definition of the Administration's policy to-ward the Filipinos. No one can intelligently declare the Administration's policy, because it depends almost entirely on the natives themselves. As long as they fight American troops our policy will be to fight back and fight to conquer. Had these antis been a trifle more patriotic and given less encouragement to the insurgents there would have been no fighting, and now that the power of the antis for evil has been destroyed the fighting will soon come to an end. Uncle Sam is free to "take up the white man's burden," and he will not shirk the load. Those who hold up Aguinaldo as an oriental George Washington are wide of the mark. George Washington are wide of the mark.

Mr. President, I have quoted from the leading Democratic newspapers in New York, in Cincinnati, in Louisville, in New Orleans, in Nashville, in Atlanta, in Memphis, and now I come to Denver. I do not now see the Senator from Colorado [Mr. Patterson] in the Chamber, but I wish he might be here that he could hear, as I am sure he would with great pleasure, the exceedingly able editorials he published at that time. These do not read exactly as his speeches do now, but in the years to come those who are interested in the Senator from Colorado will, in my judgment, take a great deal more pride and pleasure in reading these editorials

than in reading his present speeches.

He has a very ably conducted paper, and he is a very able writer, as might be imagined from what we have seen of him in this Chamber. He was first and foremost, Mr. President, in advocating the policy that William McKinley finally adopted with respect to the Philippines and what was finally put into effect when we in this Chamber ratified the treaty providing for the annexation of those islands. Not only, Mr. President, did the Senator from Colorado favor that policy on account of other interests, but also and explicitly on account of "commercial interests." I do not say that to his discredit. That is, on the contrary, to his high credit. Now, I want to read these editorials, noting with pleasure that the Senator has now come into the Chamber and is present.

[Denver Daily News, editorial, November 21, 1898.]

THE NATIONAL POLICY.

Whatever may be the motives of the Republican leaders the policy which they enunciate is the correct policy for this country to pursue. The United States must take its place as a world power, confident of its ability to bear its share of whatever burdens may come upon it and to reap its share of the honors and profits.

"Profits."

Mr. SPOONER. What? "Profits!"

Mr. FORAKER. "Profits"—p-r-o-f-i-t-s. [Laughter.]

If the acquisition of the Philippines were a mere matter of taking possession of a group of distant islands, with 8,000,000 or 9,000,000 inhabitants, many of them little civilized, there would be reasonable ground to question its expediency.

But the question is far greater than that. Countries in Asia with a population between 400,000,000 and 500,000,000 are about to be broken up, dismembered, and perhaps divided between the European nations, which are hungry for their trade, and which are jostling one another in their hurry to seize upon choice territory. There will be the great commercial development of the future. Perhaps not twenty-five years will pass before China, as we know it, will have ceased to exist, and the aggressive powers of the Caucasian race will have parceled it out among themselves. The Philippines lie at the threshold of this imperial spoil lie at the threshold of this imperial spoil.

Think of it!

Mr. SPOONER. Spoil?

Mr. FORAKER. Ŷes, spoil. Imperial spoil.

The Philippines lie at the threshold of this imperial spoil. Any of the European powers would rejoice at the opportunity to secure possession of them, for they afford a vantage ground without a rival for trade operations with the Continent—

Now, I want Senators to get the benefit of that description of the Philippines; that the European powers would jump at the opportunity to get the Philippines. Why? Because the Philippines "afford a vantage ground without a rival for trade operations with the Continent."

While this editor was thinking so much about the commercial aspect of the Philippines, it certainly was permissible that the President, who stood charged with a great responsibility, should at least make inquiry of his representatives, who were over there, as to the commercial advantages of the place-

without a rival for trade operations with the Continent and other islands of the far Pacific. If the United States were to fail to avail itself of the opportunity now presented to it we would feel profound national regret before the next quarter of a century hed pessed.

Holding possession of the Philippines, we shall be in a position to claim our portion of Asiatic trade, and if, to make the claim and to enforce it, we shall be compelled to participate in what some speak of fearfully and with bated breath as "toesign complications," nevertheless let the American nation go forward calmly and undisturbed to its destiny. This country is too great, too resourceful, and too strong to permit weaker nations—and by weaker nations we mean every other nation on earth—to secure undeserved advantages on the western shores of an ocean which washes our coasts for thousands of on the western shores of an ocean which washes our coasts for thousands of miles and is peculiarly the domain in which our energies and resources should find their outlet.

That is not all, Mr. President. If the United States had failed through the action of President McKinley to take advantage of that opportunity to acquire the Philippines, he would have been impeached before he would have gone out of office, in all probability. At least nothing would have prevented it except only a failure to get the requisite votes in the other House.

We would be shut out of participation in the commercial expansion of Asia, which will be the marvel of the world's progress in the twentieth centurv.

On Saturday, November 26, 1898, the Denver Daily News published the following editorial:

## DEMOCRACY AND EXPANSION.

The Philippines will be ceded to the United States by the treaty of Paris, The Philippines will be ceded to the United States by the treaty of this, and, being ceded, no power on earth can prevent the ratification of the treaty. Some Republicans will oppose it, so will some Democrats, but the voice of the American people will drown down the piping tones of the Lilliputians that oppose their trifling opposition to manifest destiny. The attempt of such men as BAILEY is to force upon the Democratic party championship of the policy of consistent to expansion. He would make the

Democratic party a log with which to dam-

# He spelled it without a final "n"-

with which to dam the overwhelming Niagara flood of American confidence and patriotism. He would withdraw the flag from Hawaii, Porto Rico, and the Philippines, and abandon the latter to anarchy or to European nations as the spoils of intrigue and avarice. Such a stand means the overwhelming defeat of the Democratic party in 1990. If it is so unfortunate as to become Baileyized it might as well abandon its national convention in 1990 and enter upon a bushwhacking struggle for a few small offices and the support of a few small men few small men.

# [Laughter.]

The Democratic party can not afford to reverse its lifetime policy and ignore its traditions upon the question of expansion.

There are small-minded and great-minded Americans to-day as well as in

There are small-minded and great-minded Americans to-day as well as in the past. There were Baileys in the Denocratic party in Jefferson's and Menroc's time, as there are to-day. But then, as now, the progressive large-minded steed by the policy that widened the country's boundaries and made possible its greatness. What other countries can do this can do better. If Great Britain, with a population of 50,000,000, can govern and civilize 400,000,000 the large part and civilize 400,000,000 the large part and deepens the liberties of its own people at home, the United States can do the same thing better. We have unshaken confidence in the power and wisdom and greatness of the American people, and of their ability to happily and prosperously solve every problem of statecraft that may confront them while the vital principles that give safety and vigor to their own liberties will strike deeper root and afford enlarged safety and protection.

On the 29th of November, 1898, the same paper, the Denver Daily News, published the following editorial:

THE PHILIPPINES ARE OURS.

Now that Spain grants the whole of the Philippines to the United States, further opposition to expansion should cease. sit sle

The Philippines-

Now, I want this carefully noted-

The Philippines can be governed without impairing either the value or dignity of American labor. They can be made to yield ample revenues, even with the "open door," to pay for their acquisition and future defense. They will present a splendid field for genius and energy of the young of our present and future generations. They place the United States on the threshold of Asia and Africa-

He is going to take them both in—

ready to gather our share of the future commerce of these barbarous and semicivilized countries. They will discipline American character and develop American self-reliance. They will be the funnel through which American genius and love of liberty will be carried to Eastern shores and from thence inland to the needy millions. All hail the Philippines!

Laughter.

What unspeakable joy there was in that editor's office at Denver that night. [Laughter.]

All hail the Philippines, the fruit of American valor and humanity; the nursery from which will go forth to other of the far Eastern countries liberty, equality, and fraternity.

Here is another editorial article, which appeared in the same paper, the Denver Daily News, of Wednesday, December 7, 1898. I am reading at great length from these editorials. I am doing that because I say with great pleasure they are the ablest editorials that I have found on this question in either any Democratic or any Republican paper. [Laughter.] I have not found any writer of that time who had so broad and clear a comprehension and conception of what we were doing as the man who wrote these editorials. They will reflect honor and credit upon the writer as long as they shall be known among men, and therefore I am trying to put them in the RECORD, where forever they may be read by the American people. [Laughter.]

The next article is headed "Hawaii and the Philippines." Not a phase of this troublesome question escaped this astute observer.

Here he writes:

[Denver Daily News (editorial), Wednesday, December 7, 1898.] HAWAII AND THE PHILIPPINES.

It is accepted that the cession of the Philippines to the United States comes handicapped with the "open door." Their annexation is impossible under any other condition. Great Britain's moral backing in our demands for the Philippines has been on condition that the "open door" is maintained. France and Germany have reluctantly submitted, but only because of Great Britain's attitude and the "open door." This "open door" means that our custom laws do not and can not apply to the Philippines.

I want every Senator here to get the benefit of that.

As to exportations from the United States to them, whether it is American Asto exportations from the United States to them, whether it is American grain or meat, or American manufactures or American anything else, they must enter the Philippines upon the same terms as like articles from foreign countries, and none other. If there is free trade between the United States and the Philippines, then all other countries must have free trade with them. If importations must pay custom duties, then those from the United States must pay them as well as those from other countries. This is the price paid for permission from England, Germany, and France to annex the islands. It is a dear price—a much higher price than the \$20,000,000 paid in cash to Spain. It forbids makingNow, note this:

At forbids making the Philippines an integral part of the United States of America. They can be head ody as captive "foreign" territory. The contemptible fiction must remain a continuing clean at of the American system. The "open door" means that the Constitution of the United States in no place in shaping legislation for the islands. All laws for them must be extraconstitutional. They can not as is proposed for Hawnii, become a Territory. They are and will remain spoils of war, held as "foreign" territory, and therefore subject to such exceptional and extraordinary methods of control as are permissible where martial law exists. It forbids making the Philippines an integral part of the United States of

On the 6th day of February, 1899, after the fighting had commenced, we have this editorial in the Denver Daily News:

#### THE FIGHT AT MANILA.

No matter what individual Americans may think about the policy of expansion or the claims of the Filipinos to independence, the fight at Manila leaves us no other course than to inflict summary chastisement upon those who have been rash enough to invite armed conflict with the Army of the United States. If the Filipinos had been sensible enough to behave decently and to appeal to the priciples of liberty which are deeply implanted in the American heart, they would have created an increasing volume of sentiment in favor of granting them virtual, if not complete, independence at an early moment. As it is, their leaders have chosen to be truculent and defant, and the encounter of Saturday evening was brought about by an attempt to ignore the American sentry lines.

Fate seems to have willed that we must undertake a big task in the Philippines whether we wish it or not. Had Dewey destroyed the Spanish fleet in Mirs Bay or off the harbor of Hongkong we probably would not have troubled ourselves with the archipelago at all. Had the Filipinos taken the right course they probably would have little difficulty in building up a powerful feeling in their favor. But it was in the bay of Manila that Dewey found the enemy, and it was the choice of the Filipinos to threaten the violent expulsion of our forces from the islands.

Nations, after all, are actuated by pretty much the same motives as men. A big, powerful man might be persuaded to show clemency to a weaker foe, but he will scarcely consent to retire from the field when the little fellow we shall participate in the affairs in the Far East.

Tuesday. February 7, 1899—I am pretty near through these edi-

Tuesday. February 7, 1899—I am pretty near through these editorials, I am sorry to say; but here is another-

Mr. SPOONER. Was there not something about "Provi-

dence" in the last one the Senator read?

Mr. FORAKER. Oh, yes; Providence figures rather conspicuously here.

Mr. BEVERIDGE. And "fate?" Mr. FORAKER. Yes; "fate." "Providence," "fate," "destiny," and "commerce"—all the elements of national greatness.

I will now read the editorial from the Denver Daily News of Tuesday, February 7, 1899:

ONLY ONE DUTY.

There is now only one thing to do, and that is to knock peace into Aguinald) and his followers-

[Laughter.]

That is what we have been doing-

no matter what we may do with the Philippine Islands afterwards. While the forces of the United States were holding Manila, which they had captured from the Spaniards, for centuries the oppressors of the Filipinos; while the Senate of the United States was debating a treaty which forever relieved the islands from Spanish rule; while a large and patriotic body of men was insisting on the withdrawal of the United States from the islands and the handing them over to Aguinaldo's government, if such it can be called, a treacherous attack was made on the American lines.

That act has made it impossible for the United States to leave those islands until it has administered proper chastisement to those responsible for the attack. While it may be determined not to hold these islands and may be disadvantageous to hold them, still our national dignity and honor will not permit our forces to be driven out.

permit our forces to be driven out

All accounts of the recent battle agree that there was great slaughter

among the Filipinos. They have discovered at the start that they have not Spaniards to fight. Perhaps they have been deceived by the kindness and consideration with which they have been treated by the American officers and troops. If so, they have been awakened to the real character of American soldiers, and this fact may have its influence on future operations in these islands. But now until Aguinaldo sues for peace there can be no let-up in the war in the Philippines.

Here is one more that I had almost overlooked. This is also from the same paper, the Denver Daily News, of February 17, 1899.

WHAT IT MEANS.

The ratification of the treaty with Spain and the passage of the McEnery resolution have not solved the Philippine question. That is more perplexing to-day than it was the day that Admiral Dewey sailed into Manila Bay. It has been complicated by the action of Aguinaldo and his army of insurgents. First, we broke the Spanish power in the islands; then we bought them; now we are fighting with the natives to hold them. We could not withdraw from them without disgrace, no matter how much we might desire to do so.

Mr. President, I have said enough, I trust, to show that the Administration of President McKinley not only acted without any improper motive in acquiring the Philippines but that they were acting in accordance with the best sentiment of this country as expressed by the Democratic journals as well as by Republican newspapers from one end of the country to the other, and that therefore, so far as the acquisition of the islands is concerned, and so far as everything that was done with respect to them subsequent to the ratification of the treaty, and our entering into possession under that treaty, is concerned, there is nothing whatever, as the record conclusively shows, to justify such charges as those which have been made by the Senators from Tennessee and South Carolina, and other Senators.

I now call attention to the policy, as shown by the record, inaugurated by President McKinley and pursued by him as long as he lived, a period of more than two years. I want to do this as briefly as I may. Therefore, without stopping to read everything, I shall call attention in a descriptive way to what I want to use and shall put into the Record, unless there is objection. I refer to the various documents upon which I shall comment.

Senators will remember that before the treaty of peace was ratified, looking forward to such ratification and the responsible duty that would thereby devolve upon this Government with respect to the Philippine Islands, the President appointed what was known as the Schurman Commission, a commission composed of Dr. Schurman, president of Cornell University, Admiral Dewey, who was then still in Manila, Professor Worcester, Colonel Denby, and General Otis, five members. They were appointed a Commission in 1899, and were by the President, in a letter of general instructions, directed to meet in Manila at the earliest possible moment for the purpose of investigating the conditions as they might be found to exist, and for the purpose of making recommendations to the President as to what steps should be taken looking to the establishment at once of civil government throughout those islands.

The President sent this Commission to the Philippines before there was any conflict between our forces there and the Filipinos. He sent them before he supposed there would be any conflict. He gave them a letter of instructions, in which he directed that as soon as they arrived in the Philippine Islands they should make known their mission, and that they should advertise to the Fil-

ipinos, by proper proclamation, what the policy was to be upon which our Government would enter with respect to the Philippines, the treaty having been ratified and we having taken pos-

session thereunder.

I will not stop to read that order of instructions, but will ask that it may be placed in the RECORD. It is found at page 185 of the report of that Commission. It is published there as Exhibit 2 of their report. All will learn who will take the trouble to read it that President McKinley exercised the utmost care, in enumerating their powers and instructing them how to proceed, to avoid giving to the Filipinos any offense whatever; but at the same time he unequivocally directed them to give the Filipinos to understand that we had assumed authority and all must obey and respect our authority.

Mr. MONEY. Will the Senator permit me to interrupt him?

Mr. FORAKER. Certainly.

Mr. MONEY. Will the Senator allow me to ask the date of that order?

Mr. FORAKER. The date is January 20, 1899.

Mr. MONEY. I asked because the Senator stated it was before any hostilities had begun. War had been waging nearly a year

at the time that Commission was appointed.

Mr. FORAKER. Then this date is a misprint, because we all know that the Schurman Commission did go to the Philippines before the war commenced. Hostilities broke out while they were on the ocean, and the first they knew of hostilities was when they arrived there.

Mr. MONEY. I beg your pardon. If the Senator will permit me, the treaty was not ratified until after war had begun, ac-

cording to his statement.

Mr. FORAKER. That is very true, but the Commission was appointed before the treaty was ratified.

Mr. MONEY. I think you are mistaken about that.

Mr. FORAKER. Mr. President, I am not mistaken. I will see now if I am, and if I am I shall only be too glad to correct it. I am certainly glad the Senator has called my attention to it. Let me read what the Commission say:

At the time of the Commission's appointment peace existed in the islands, On the arrival of the civilian members in Manila hostilities had been in progress for a month. The Commission was not appointed as a "peace commission," as it has been often called.

Mr. President, the document is rightly dated, January 20, 1899. It was February 4, 1899, when war commenced. The Schurman Commission was appointed, I know, before we had ratified the treaty, and before there had been any clash between the Filipinos and the United States troops; but I will read now, as I did not intend to, this order of the President, in order that we may make no mistake about it:

EXECUTIVE MANSION, Washington, January 20, 1899.

I think the Senator, upon reflection, will agree with me that the war commenced on the 4th of February, 1899, and this appointment was prior, as I stated a moment ago, to the breaking out of hostilities and prior to the ratification of the treaty of peace. It is addressed to the Secretary of State:

EXECUTIVE MANSION, Washington, January 20, 1899.

The SECRETARY OF STATE:

My communication to the Secretary of War, dated December 21, 1898, declares the necessity of extending the actual occupation and administration of 5253-3

the city, harbor, and bay of Manila to the whole of the territory which by the treaty of Paris, signed on December 10, 1898, passed from the sovereignty of Spain to the sovereignty of the United States, and the consequent estabhishment of military government throughout the entire group of the Philippine Islands. While the treaty has not yet been been ratified, it is believed that it will be by the time of the arrival at Manila of the commissioners named below.

Then it proceeds to name the commissioners and give them their instructions, which I do not, as I say, deem it necessary that I should stop and read, because it would take so much time. I only want to call attention to the fact that there was no mystery what-

ever about our policy with respect to the Philippines.

First, there was the acquisition under the treaty, with respect to which everybody was informed, as I have undertaken to show by quoting from newspapers from one end of the land to the other. as well as by quoting from official documents that speak conclusively on that subject; and now after the islands had been acquired, before the treaty was ratified, recognizing that as soon as ratification occurred the duty of government would devolve upon us, the President, being anxious to be ready for that great duty, appointed this very able Commission, a Commission that enjoyed the confidence and respect of the whole country, and sent them to the Philippines with explicit instructions, which instructions they were directed to publish broadcast in the archipelago, as they did, to the end that everybody might know what the policy was of this Government.

And what was that policy? The policy was one of extremest kindness and gentleness in every respect; a policy that looked to the immediate establishment of civil government wherever the conditions were such as to admit of civil government; a policy that looked to the displacement of military government as rapidly as was possible, and a policy that looked with jealous care to even the prejudices of the people in the Philippine Islands. In

that connection let me read one paragraph:

The commissioners will endeavor, without interference with the military The commissioners will endeavor, without interference with the military authorities of the United States now in control of the Philippines, to ascertain what amelioration in the condition of the inhabitants and what improvements in public order may be practicable, and for this purpose they will study attentively the existing social and political state of the various populations, particularly as regards the forms of local government, the administration of justice, the collection of customs and other taxes, the means of transportation, and the need of public improvements.

It is my desire that in all their relations with the inhabitants of the islands the commissioners exercise due respect for all the ideals, customs, and insti tutions of the tribes which compose the population, emphasizing upon all occasions the just and beneficent intentions of the Government of the-

United States.

Now, Mr. President, when that Commission arrived, in accordance with that general instruction and the authority conferred by that document, they issued a proclamation to the Filipinos, under date of Manila, April 4, 1899, which I ask to have inserted in the RECORD. I stop to say only this, with respect to it, that it was in strictest accordance with the instructions which I have just read, as it might have been expected it would be, from the President to the Commission. [See appendix.]

They issued that proclamation, and then they set to work, and they were diligent. They were there almost a year. Their report of their work in the Philippines is dated January 31, 1900. After a careful and diligent investigation of conditions then existing they wrote a report in which they set forth who the inhabitants

are, how many tribes there are, as I pointed out this morning, and what their relative degrees of civilization are; pointing out that while no tribe there is what we would call a highly civilized tribe, yet there are some tribes that have quite a degree of civilization, and that they range from that down to absolute barbarism and densest ignorance. There can be no question, Mr. President, but that this report in all these particulars is absolutely reliable.

But, Mr. President, among other things they spoke of our Army, and I want to call attention to that. In the progress of this debate we have not only had the policy of this Government assailed, but we have had also as I understood it when Senators were making their speeches, the American Army assailed. When men stand here in their places in this Chamber and suggest that possibly this or that or the other brutality to which attention is called might be explained upon the theory that a man was responsible for it who had just graduated from a school of savagery in China and then mention General Chaffee's name in that connection, I understand that to be an assault upon the character, as

a man and a soldier, of General Chaffee.

When men stand here and hold up the order of Gen. J. Franklin Bell and ask if anybody here will defend so infamous an order as that, I understand there is an assault being made upon Gen. J. Franklin Bell. When men stand here and in unmeasured language condemn Gen. Jacob H. Smith, I understand there is an assault being made upon him; and when men have stood here and have arrayed in the aggregate scores of brutalities and have charged them all to the army in the Philippines, I understand there is an assault being made upon the Army of the United States, and that it extends from the Commanding General at the head of the Army down to the humblest private soldier there. And, Mr. President, the country so understands it.

Mr. President, it will not avail Senators to say that in making these assaults they were not intending to assail the Army of the United States, but only undertaking to assail somebody here in the United States. Who is there here in the United States to be comprehended in this assault? I have pointed out most conclusively that under President McKinley, so far as he spoke, and he spoke for his Administration and spoke conclusively, there is no room to charge him or any representative of his Administration with any cruelty or with responsibility for any cruelty or any barbarity or any savagery, and the same is equally true of the Administration of President Roosevelt. And only this morning Senators disclaimed in this Chamber that they intend to include in their charges anybody in the Congress of the United States.

Well, if they do not intend to include anybody here, if they do not intend to include anybody at the White House, or in the War Department, or in the American Army in the Philippines, in God's name whom do they refer to? It will be in vain, Mr. President, that Senators will say "we did not mean thus and so." The American people understand the English language, and they do not need any interpreter, and they will not have any evasion in the interpretation of the language that has been employed. Now, Mr. President, as to what our Army was doing in the Philippines while the Schurman Commission was there, I read this extract

from their report:

The Commission is not willing to close this statement without paying just tribute to our sailors and soldiers. The presence of Admiral Dewey as a 523

member of this body makes it unfitting to dwell on his personal achievements, but he joins with us in eulogy of his comrades. We were fortunate in witnessing some of the many brave deeds of our soldiers. All that skill, courage, and patient endurance can do has been done in the Philippines. We are aware that there are those who have seen fit to accuse our troops of descriptions. ecrating churches, murdering prisoners, and committing unmentionable

crimes

To those who derive satisfaction from seizing on isolated occurrences regrettable, indeed, but incident to every war—and making them the basis of sweeping accusations, this Commission has nothing to say. Still less do we feel called upon to answer idle tales without foundation in fact. But for

we feel called upon to answer idle tales without foundation in fact. But for the satisfaction of those who have found it difficult to understand why the transporting of American citizens across the Pacific Ocean should change their nature, we are glad to express the belief that a war was never more humanely conducted. Insurgents wounded were repeatedly succored on the field by our men at the risk of their lives.

Those who had a chance for life were taken to Manila and tenderly cared for in our hospitals. If churches were occupied it was only as a military newssity, and frequently after their use as forts by the insurgents had made it necessary to train our artillery upon them. Prisoners were taken whenever opportunity offered, often only to be set at liberty after being disarmed and fed. Up to the time of our departure, although numerous spies had been captured, not a single Filipino had been executed. Such wrongs as were captured, not a single Filipino had been executed. Such wrongs as were actually committed against the natives were likely to be brought to our attention, and in every case that we investigated we found a willingness on the part of those in authority to administer prompt justice.

During this time, however, Mr. President, the war for the suppression of the insurrection went on. It was successful in the great majority of the provinces, but there finally remained Batangas, Laguna, Leyte, and Samar, where still there was more or less of insurrection. As the war progressed there it became nec-essary to change its character, and that was done by General Bell. I speak of him instead of others because he has been so

bitterly assailed in the progress of this debate.

I have his record here. I have taken the trouble to find out who he is, and I want to first put that in the RECORD. I find he was born in Kentucky, January 9, 1856; that he was sent as a cadet to the Military Academy at West Point upon the recommendation of the Hon. James B. Beck. From these two points we can judge something as to his political antecedents, if they are to be taken into consideration. But, Mr. President, I would not think of taking politics into consideration with an American soldier, and especially not in connection with the discharge of such a duty as that which Gen. J. Franklin Bell has so heroically, so gallantly, and in such a soldier-like way discharged in the Philippines.

Without stopping to read it I will simply say, if it may be printed in the RECORD without objection, that Gen. J. Franklin Bell has a record of which any soldier might well be proud. Just such a record as might be expected would be made by the selection of such a sturdy character as Senator Beck. He was assigned because of his energy and his splendid capacity as a soldier, and because of the success with which he had met in other positions, to the command of what is known as the Third

Brigade in the Philippines.

His record in full is as follows:

J. Franklin Bell, born in Kentucky January 9, 1856. Cadet at the U. S. Millitary Academy, I September, 1874, to 14 June, 1878, when in was graduated No. 38 in his class and appointed additional 2d lieut., 9th Cav., 14 June, 1878; 2d lieutemant. 28 June, 1878; transferred to 7th Cavalry, 9 Aug., 1878; 184 huttenant. 29 Dec., 1896; regil., adjt., 15 Sept., 1891, fol Dec., 1896; major, engineer of volunteers, IT May, 1898; to IT Apr., 1896; to 1904. It Cavalry, 2 Aug., 1896; natjor, asst. adjt., senl., U. S. V., IT Apr., 1899, to 12 July, 1896; colonel 36th U. S. Vol. Infy., 5 July, 1898; brigadier-general, U. S. Vols., 5 Dec., 1899; brigadier-general, U. S. A., 19 Feb., 1891.

#### SERVICE.

With regiment at Fort A. Lincoln, North Dakota, October, 1878, to June, 1882 (guarding construction of Northern Pacific Railroad May to October, 1882); at Fort Buford, Dakota, to May, 1885; professor military science and tactics at the Southern Illinois University July 1, 1886, to July 1, 889; with regiment at Fort Riley, Ransas, to November 25, 1890; on leave to yanuary 7, 1891, when learning that his regiment was in the field, he surrond red the remainder of his six months' leave, rejoined his regiment at Pine R. dge Agency, January 7, 1891, and served with it there to February, 1891; at Fort Riley, Kansas, being also secretary of the cavaly and light artillery school at that post to December 9, 1894; at San Francisco, California, as aid-de-camp to General Forsyth to May, 1897; on leave to July, 1897; with regiment at Fort Apache, Arizona (in the field suppressing Zuni Indian disturbances September 10 to October 11, 1897), to March 20, 1898; judge-advocate, Department of the Columbia, April 1 to May 26, 1898; en route to Manila, P. I., to July 16, 1898; chief of the military information division, Department of the Pacific, to April 17, 1899; acting judge-advocate and mustering officer, 2d division, 8th Corps, to June 8, 1899; organizing a volunteer regiment to August 17, 1899; commanding 36th U. S. Volunteer Infantry in the Philippines to December 24, 1899; commanding 4th brigade, 2d division, 8th Corps, to April 12, 1900; commanding 1st district, Department of Northern Luzon, to July 4, 1900; provost-marshal-general of Manila and suburbs to February 20, 1901; commanding 1st district, Department Northern Luzon, to November 30, 1901; commanding 36 Separate Brigade, Department North Philippines With regiment at Fort A. Lincoln, North Dakota, October, 1878, to June, ber 30, 1901; commanding 3d Separate Brigade, Department North Philippines to date.

to date.

He was awarded a medal of honor for most distinguished gallantry in action, September 9, 1899, near Porac, Luzon, P. I., while in advance of his regiment, charging seven insurgents with his pistol and compelling the surrender of the captain and two privates under a close and hot fire from the remaining insurgents concealed in a bamboo thicket, while serving as colonel, 36th Infantry, U. S. Volunteers.

Apr. 7, '02, the President expressed his gratification and the gratification of the American people at the results of the campaign of General Bell and officers and men of his command in Batangas and Laguna provinces which culminated in the surrender of the insurgent forces under Malvar, and which will further extend the territory in which civil government is exercised.

Mr.: FORAKER. When he assumed this command, Mr. President, it was after numberless acts of savagery had been committed by the insurgents. It was after our men had been bushwhacked. after they had been misled by treachery and deceit, and after they were, having been captured, put to death by all kinds of barbarity, their bodies disfigured in ways that are unmentionable, and it was also after, at Balangiga, Company C of the Ninth Regiment had been, by an act of treachery, put within the power of the natives and more than forty of them had been butchered in cold blood by a treacherous mob. It was after acts of this kind had been borne with for a long time that General Bell was sent to Batangas and there issued his somewhat famous order. I do not know of any better defense for that order than that which he makes in reciting the reason why he makes it. Let me read this order:

BATANGAS, P. I., December 13, 1901.

To all Station Commanders:

The United States Government, disregarding many provocations to do The United States Government, disregarding many provocations to do otherwise, has for three years exercised an extraordinary forbearance and patiently adhered to a magnanimous and benevolent policy toward the inhabitants of the territory garrisoned by this brigade. Notwithstanding this fact, opposition to the Government has been persistently continued throughout this entire period by a majority of its inhabitants. The enemy, long realizing their inability to maintain themselves without the unanimous coperation and support of the entire population, have, in order to keep up their useless struggle, established a reign of terror by resorting to atrocities and expedients which violate the well-known laws and usages of war, as announced in General Orders, No. 100, Adjutant-General's Office, 1863, approved and published by order of President Lincoln, for the government of the armies of the United States in the field.

armies of the United States in the field.

First. They have accepted local offices from the Government and taken the oath of allegiance solely for the purpose of improving their opportunities and facilities for deciving American officials and treacherously aiding

and assisting the cause of the insurrection, in violation of section 26.

Second. They have with bolos and other weapons killed helpless prisoners and soldiers lying on the ground, wholly disabled by wounds which prevented their defending themselves in any way, in violation of sections 49, 56, 61, and 71.

on, and A. Third. In order to confuse their identity, and thereby be able the more safely to conduct their skulking operations, they have adopted the uniform of our Army and native troops without any plain, striking, and uniform mark of distinction of their own, in violation of section 63.

Fourth. They have improvised and secreted in the vicinity of roads and trails rudely constructed infernal machines propelling poisoned arrows or darts, in violation of section 70, thus placing themselves beyond the pale of

the laws and usages of war.

Fifth. Men, and squads of men, without commission, without being part Fig. Men, and squads of men, without commission, without being part or portion of the regularly organized hostile army, without sharing continuously in the war, but with intermittent returns to their homes and avocations, and with frequent assumption of the semblance of peaceful pursuits, divesting themselves of the character and appearance of soldiers, have committed hostilities by fighting and making raids of various kinds, after which, concealing their arms, they have returned, posing as peaceful citizens, and secretly lived in the same towns with garrisons of our troops, in violation of section 82

Sixth. Armed prowlers have stolen within the lines of our Army to cut Sixth. Armed prowers have stolen within the lines of our Army to cut telegraph wires and destroy bridges. Armed assassins, designated and controlled by the enemy, have come, disguised as peaceful citizens, into the very presence of our garrisons and have assassinated, in broad daylight in crowded market places, persons unlawfully condemned to death by the enemy for being friendly to or assisting the legitimately organized government—the fear, sympathy, or cooperation of the entire population effectually preventing our apprehension and punishment of the assassin. This in violation of section 84

section 84

Seventh. The apparently pacific inhabitants of towns occupied by the American Army have treacherously risen in arms against it, in violation of

Eighth. A large percentage of the population, though owing allegiance to the American Government under the provisions of section 26, have acted as spies and war traitors, in violation of the provisions of sections 88, 90, and 92.

Minth.

Ninth. A very great number of insurgent officials, soldiers, and other aiders and abettors of the insurrection, after voluntarily surrendering and after having been captured, have been pardoned and released from confinement upon taking the oath of allegiance or giving paroles, and have subsequently violated their oaths or paroles without scruple by again entering the service of the insurgent army, or aiding, or assisting the same, in violation of sections 26, 124, and 130.

of sections 26, 124, and 130.

Against but one of these flagrant violations of the laws of war, namely, murder, has the United States Government ever adjudged or executed the severe penalties authorized by the sections of the law above cited, in the vain hope that, by this exercise of forbearance and generosity, the people might be conciliated and become reconciled to and convinced of the benevolent purposes of the Government. Instead of having had the desired effect, however, this policy in the provinces of Batangas and Laguna has apparently failed to appeal to even the keenest and most appreciative intellects.

On the contrary, it has been interpreted by many as an evidence of weakness and fear, and, puffed up by a childish and ignorant conceit over what they are pleased to consider successful resistance of our power, the people have become so arrogant that they look down upon our Government and scorn its kindliest efforts at pacification. We consequently find ourselves operating in a thoroughly occupied terrane against the entire population,

operating in a thoroughly occupied terrane against the entire population, united in a hopeless struggle, using, conniving at, or tolerating barbarous methods which almost reach the limit in outraging the laws and usages of

legitimate warfare.

The reckless expedients adopted by the enemy, especially the policy of in-The recruess expectation and assassination, leaves to the brigade commander no other means of protecting either the lives of his subordinates or those of peaceful or friendly citizens or the interests of his Government against the repetition of barbarous outrage, except the enforcement of the penalties authorized by the above-cited laws of war, and he has reluctantly concluded it to be absolutely necessary to avail himself of the right of retaliation under the provisions of sections 59 and 148, whenever the duly and carefully ascertained conditions and circumstances warrant the same under the restrictions preconditions and circumstances warrant the same under the restrictions prescribed in section 28.

The brigade commander therefore announces for the information of all concerned that wherever prisoners or unarmed or defenseless Americans or natives friendly to the United States Government are murdered or assasinated for political reasons, and this fact can be established, it is his purpose to execute a prisoner of war under the authority contained in sections 59 and 148. This prisoner of war will be selected by lot from among the officers or prominent citizens held as prisoners of war, and will be chosen when practicable from those who belong to the town where the murder or assassination

occurred

It is also his purpose to severely punish, in the same or a lesser degree, the commission of other acts denounced by the aforementioned articles. In this conection the attention of all American officers is invited to the last paragraph of section 29 and to the provisions of section 134. Commanding officers are authorized to enforce the provisions of this latter section whenever they may deem it just and practicable.

J. F. BELL, Brigadier-General, Commanding.

In other words, Mr. President, it is made clear by the order itself that General Bell issued that we had been for three long years forbearing and forbearing beyond what any other people have ever done in the face of such provocation as has been visited upon our soldiers and our officers there; that, finally, not because he wanted to be a savage and brutal ruler in that country, as charged, but because he found it to be absolutely nscessary, as he states, he concluded to apply the law of retaliation, to the end that he might protect the lives of the soldiers under his command and that he might protect the lives of the citizens there who were friendly to the cause of the United States and that he might protect the interests of the Government of the United States.

True, then, he has resorted to the law of retaliation; but what is the law of retaliation? Why, Mr. President, it is talked about here as though it were an unheard-of thing in the history of wars. The law of retaliation, on the contrary, as General Bell points out, is provided for in the famous Order No. 100, issued by Abraham Lincoln in 1863. It is a law that ought never to be applied except only when there is extreme provocation for it; but if General Bell does not set forth extreme provocation in all these instances and in all the cases he recites, then I do not know what

would constitute extreme provocation.

And what is the result? While Senators stand here criticising him and denouncing him as guilty of barbarity, he has suppressed absolutely in Batangas and Laguna and Samar the last vestige of that insurrection, and except only about 100 men in Leyte, as the official telegrams show, there is nobody left, even in the bushes, throughout all that territory to resist or challenge the authority

of the United States.

Mr. President, this talk of barbarities by our Army is not new talk. I have taken pains to look at the record, not with a view of quoting it here, but simply with a view to familiarizing myself with it, and I find that our Army in the war of 1812 was bitterly criticised, as was the army of Great Britain, for the cruelties and barbarities practiced. And, Mr. President, there are hundreds of pages of the record devoted to the debates in Congress about the cruelties and barbarities practiced by Andrew Jackson when he was fighting the Seminoles and the exiles in Florida.

Mr. CARMACK. Does the Senator say our Army was accused

of cruelty in the war of 1812?

Mr. FORAKER. It was, and also in the war with Mexico. You can go to the library and find book after book devoted to the exposition of cruelties and barbarities and outrages practiced and ordered to be practiced by General Scott and his subordinates in Mexico. If the Senator has been looking the matter up, he will remember all this. I would not have known it if I had not looked it up, and that is the reason why I make the remark in that way. The country was infested with guerrillas, rancheros, and they were ambushing and annoying our troops. Finally the general issued an order, and other officers did the same, that every such man under the law of retaliation should be given no quarter whatever, but should be put to death as the only way to break up such warfare.

During the civil war there were numerous complaints of brutality and cruelty of one kind and another. And now we come down to the Philippines, and we are told that there is more brutality here than has ever been heard of in all the history of the world. If the Senator from Tennessee had only gone back a little further in his Bible than the point at which he commenced to quote and had looked at the campaigns of Joshua, he would have found more cruelties and barbarities and wholesale slaughter than anything he has discovered in the Philippines. You will remember when the walls of Jericho fell Joshua was ordered to enter and slay everybody, old and young, men, women, and children, and that it was usual in that day to put all to death until no one remained to breathe. Both sacred and profane history bear testimony to the truth of the statement over and over again here made that "war is cruelty, and you can not refine it."

When men marching through the Philippines are fired upon from ambush and shot down, much more when they are captured and as prisoners are put to death without mercy, their heads cut off and stuck on the top of poles, their arms cut off, and legs cut off, and their eyes gouged out, and their bodies disfigured in every possible manner, the result is that the surviving comrades of such unfortunate victims will at the first opportunity avenge

such savagery and such insult and such wrong.

Mr. President, I do not intend to talk about the order of General Smith: first, because I do not know whether he made any such order as the papers have reported. If he did, I will await all the facts before I judge him. I do not believe he made any such order as has been reported to us, or if he did I think we shall find, when we learn the whole truth, that there is a light to be cast upon it with which we are not now familiar. I judge that from the record General Smith has made. I also send that to the re-

porter and ask that it may be inserted in my remarks.

I find that he, too, like General Bell, started on his military service in the State of Kentucky, although he was later appointed and charged to the State of Ohio. I do not have the pleasure of knowing him personally, but I have found that his military service commenced at the beginning of the civil war, on the 4th day of June, 1861. I find that he was wounded at Barboursville July 13, 1861, and that he was most severely wounded at the battle of Shiloh, Tenn., April 7, 1862. I find that he was also wounded in action at San Juan, and I further find that he has been continuously in the service of his country as a soldier more than forty years, and that his record is one as a soldier of which any American might well be proud.

It is as follows:

Jacob H. Smith. Born in Ohio and appointed from Illinois. Retires January 29, 1904.

I obustier record.—1st lieutenant, 2d Kentucky Infantry, 4 June, 1861; captain, 28 Jan., 1862; captain, V. R. C., 25 June, 1863; honorably mustered out, 21 Oct., 1865.

He was wounded during the war in the action at Barboursville, Virginia, July 13, 1861, and severely wounded at the battle of Shiloh, Tennessee, April 7, 1862.

Regular Army record.—Captain, 13th Infantry, 7 Mar., 1867; major, judge-advocats, 25 May, 1869; revoked, 10 Dec., 1868; unassigned, 25 May, 1869; assigned to 18th Infantry, 15 Dec., 1870; major, 2d Infantry, 26 Nov., 1894; lieutenant-colonel, 12th Infantry, 30 June, 1898; colonel, 17th Infantry, 20 Oct.,

1899; brigadier-general volunteers, 1 June, 1900; brigadier-general, U.S.A., 33) Mar., 1991. Brevetted major 7th March, 1867, "for gallant conduct in the battle of Shi-

loh, Tennessee, April 6, 1862.

Brevetted major 7th March, 1867, "for gallant conduct in the battle of Shiloh, Tennessee, April 6, 1862."

S.Th.c.—He Jimedhis regiment July 22, 1867, and commonde this company at Fort Shaw, Montana, to April 18, 1868; on duty in office of Judge-Advocate-General, Washington, D. C., to May 31, 1869; judge-advocate, Department of the Platte, June 14, 1869, to June 30, 1870; awaiting orders to December, 1870.

He joined the Nineteenth Infantry January 30, 1871, and commanded his company at Jackson Barracks, La., to April 19, 1873; at Colfax, La., to May 6, 1873; at Alexandria, La., to November 20, 1873; at Baton Royne, La., to May 6, 1873; at Alexandria, La., to November 20, 1873; at Baton Royne, La., to May 17, 1874; en route to and at Fort Lyon, Colo., June 12, 1875, to June 13, 1877; at Fort Larned, Kans., also commanding post, to July 13, 1877; at Fort Dodge, Kans. (on leave October 5 to December 16, 1878), to September 23, 1879; on sick leave to March 22, 1880; commanding company at Fort Garland, and in the field in Colorado, to June 23, 1880; commanding company at Fort Carland, and in the field in Colorado, to June 23, 1881; at Fort Brown, Tex., to June 8, 1882; commanding company at Fort Clark, Tex., to August 5, 1855; commanding company at Fort Clark, Tex., to August 5, 1855; commanding company at Fort Clark, Tex., to August 5, 1855; commanding company at Fort Machinesh, Tex., to June 23, 1881; at Fort McIntosh, Tex., to June 23, 1883; at Fort Clark, Tex., to September 23, 1881; at Fort Davis, Tex., to December 15, 1889; at Jackson Barracks, La., to May 1, 1890, and at Fort Mackinac, Mich., to October 8, 1890; on recruiting service to June 25, 1891; commanding company at Fort Marne, Mich., to October 30, 1894; on leave to September 30, 1885; on duty at Fort Omtha, Notor to June 26, 1893; commanding regiment en route to and in the Philippines to April 14, 1890; commanding Third district, Department of Northern Luzon, July 30, 1900, to date.

Was recommended for brevet of brigadier-general for services in Cu

lac November 6 to 11, 1899.

Mr. FORAKER. I can not believe. Mr. President, to employ the language of Dr. Schurman in his report as I read it awhile ago, that transporting an American citizen across the Pacific would turn him from what he is here into a brune and a savage there, and therefore I shall withhold judgment as to General Smith until we know what the facts are. I do not believe a man who is capable of such heroism, such gallantry, such valuable service to his country would be capable of doing that for which we would all condemn him without qualification. It is not much for us to wait before we pass judgment. It is not much when the man who asks it is a soldier who has more than forty years of gallant service to his credit.

But recurring to what I was saying, all orders emphating from Washington have been of the character mentioned, and therefore it is. Mr. President, that in the Philippines the policy ordered from here and the policy of our Army have been in accord, and the sole aim of that policy, as enunciated here and as practical there. has been to restore law and order by suppressing the insurrection and all armed resistance, and doing that with as little harshness and with as little loss of life as it is possible to inflict, to the end

that civil government may be established.

Our Army has shown in this work a surprising humanity. It is a notorious fact that for more than two years after our operations commenced we scarcely ever kept prisoners, but almost invariably gave them a good meal and a good lecture and then turned them loose and let them go back, thinking and hoping that they would carry messages of our kind disposition that would result in good fruits to our cause. That policy worked well throughout Luzon and through all the provinces except only the four I have mentioned.

The insurrection there continuing and the inhabitants being of a different type of Malays from those we had been contending against elsewhere, being more difficult to deal with, being more hostile, being more treacherous, being more savage, it finally became necessary as an act of protection to our own men and our own interests to resort to the law of retaliation, and under such provocation our Army did resort to it. The action of General Bell in this respect was not unwarranted. On the contrary, he was but doing what is common in all such cases, and something as to the propriety of which he was the sole judge.

The result has justified what he did, for as a result of it there is peace to-day in Samar, there is peace to-day in Batangas, there is peace to-day in Laguna. There is peace everywhere except only in Leyte, where there are a few bolomen still in the woods, and in Mindanao, where the Moros recently got into a state of

eruption.

A few days ago, when it was announced that there was trouble with the Moros and that General Chaffee had sent our troops there, the President cabled him to halt until the matter could be investigated, but General Chaffee wired back in such a way that he got orders at once to use his own judgment, and they went ahead. I felt sorry for the opponents of this measure when, a few days later, I read in the papers what ought to have thrilled every American, how General Davis, with the gallant Twentyseventh under Colonel Baldwin, had stormed the fort of Banyan and had captured the garrison and planted our flag in victory on its walls. Every American should feel thrilled by that account

because of the heroism and the gallantry displayed.

We should talk about that feat of arms to the people, but that is one transaction in the Philippines, Mr. President, of which you will not hear anything during the approaching campaign from the orators who have spoken in opposition to this measure. They, instead of telling the people, or telling the Senate, of the splendid progress we have made, of our brilliant achievements, of the gallantry of our Army, are hunting as with a fine-toothed comb for something they can crticise—for some case of water cure; for some case where some incensed soldier boy, trying to avenge the murder of his comrade, has committed some outrage that he ought not to have committed. That is paraded, and upon the strength of a compilation of such incidents we are told that our policy in the Philippines is a wicked and mistaken policy; that our Army has practiced brutality and savagery there.

Mr. President, so far we have made no mistake about the Philippines; our policy there has been a wise and patriotic policy; a wise and patriotic policy that was well considered before we entered upon it, and a policy that has been faithfully and consistently pursued from that day until this; a policy that has not been kept in the dark, but a policy that has been published to the world; a policy that has until now required the presence of the Army there, but the Army has done its work, and now the time has come for military rule to be replaced with a civil government.

I shall not enter upon any defense of the American Army. It does not need any. From the beginning of our Government down to this minute to belong to the American Army has been an American honor. Its officers have uniformly been brave, intelligent, and patriotic and the men of the Army have been gallant and heroic soldiers, who have loved the flag and loved the coun-

try and laid down life itself unhesitatingly. What the American Army has accomplished in the Philippines is simply marvelous.

They have been under a tropical sun, in a climate to which they are unaccustomed, a climate that was thought to be dangerous, fighting an enemy who were skulking through jungles and swamps. They have pursued them everywhere, through the swamps, through the jungles, across the rivers, over the mountains, everywhere fighting them and everywhere destroying them as an organized force, in no instance halting, hesitating, or failing to win victory for our cause.

In due time that Army will come home, but, Mr. President, it will not come home bespattered with mud. It will come home in triumph to receive the glad welcome and the proud plaudits of the American people. Our people have always stood by their Army, and they always will stand by their Army so long as it is made of such splendid men, such gallant officers, such heroes,

one and all, as represent us in the Philippines.

But the fact that the work of the Army is practically done only emphasizes the necessity for the legislation now proposed. It is our immediate duty to supplement the work of the military with the civil government this bill authorizes.

#### APPENDIXES.

#### APPENDIX I.

PROTOCOL OF AGREEMENT BETWEEN THE UNITED STATES AND SPAIN, SIGNED AT WASHINGTON, AUGUST 12, 1858.

#### PROTOCOL.

William R. Day, Secretary of State of the United States, and His Excellency Jules Cambon, ambassador extraordinary and plenipotentiary of the Republic of France at Washington, respectively possessing for this purpose full authority from the Government of the United States and the Government of Spain, have concluded and signed the following articles, embodying the terms on which the two Governments have agreed in respect to the matters hereinafter set forth, having in view the establishment of peace between the two countries—that is to say:

#### ARTICLE I.

Spain will relinquish all claim of sovereignty over and title to Cuba.

# ARTICLE II.

Spain will cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrones to be selected by the United States.

#### ARTICLE III.

The United States will occupy and hold the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines.

#### PROTOCOLE.

William R. Day, Semitaire d'Etat des Etats-Unis, et Son Excellence M. Jules Cambon, ambassadeur extra-ordinaire et plénipotentiaire de la République Française à Washington, avant respectivement reçu à cet effet pleine autorisation du Gouvernement d'Espagne, ont conclu et signé les articlessuivants qui précisent les termes sur lesquels les deux Gouvernements se sont mis d'accord en ce qui concerne les questions ci-après désignées et ayant pour objet l'établissement de la paix entre les deux pays, savoir.

### ARTICLE I.

L'Espagne renoncera à toute prétention à sa souveraineté et à tout droit sur Cuba.

# ARTICLE II.

L'Espagne cédera aux Etats-Unis l'île de Porto-Rico et les autres îles actuellement sous la souveraineté Espagnole dans les Indes Occidentales, ainsi qu'une île dans les Ladrones qui sera choisie par les Etats-Unis.

#### ARTICLE III.

Les Etats-Unis occuperont et tiendront la ville, la baie, et le port de Manille en attendant la conclassion d'un traité de paix qui devra déterminer le contrôle, la disposition et le Gouvernoment des Philippines.

#### ARTICLE IV.

Spain will immediately evacuate Cuba. Porto Rico, and other islands now under Spanish sovereignty in the West Indies; and to this end each Government will, within ten days after the signing of this protocol, appoint commissioners, and the commissioners so appointed shall, within thirty days after the signing of this protocol, meet at Habana for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands; and each Government will, within ten days after the signing of this protocol, also appoint other commissioners, who shall, within thirty days after the signing of this protocol, meet at San Juan, in Porto Rico, for meet at San Juan, in Porto Rico, for the purpose of arranging and carry-ing out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sover-eignty in the West Indies.

#### ARTICLE V.

The United States and Spain will each appoint not more than five com-missioners to treat of peace, and the commissioners so appointed shall meet at Paris not later than October 1, 1998, and proceed to the negotiation and conclusion of a treaty of peace, which treaty shall be subject to rati-fication according to the respective constitutional forms of the two countries

#### ARTICLE VI.

Upon the conclusion and signing of this protocol hostilities between the two countries shall be suspended, and notice to that effect shall be given as soon as possible by each Government to the commanders of its military and naval forces.

Done at Washington in duplicate, in English and in French, by the un-dersigned, who have hereunto set their hands and seals, the 12th day of August, 1898.

[SEAL.] WILLIAM R. DAY. SEAL. JULES CAMBON.

#### ARTICLE IV.

L'Espagne évacuera immédiatement Cuba, Porto Rico, et les autres fles actuellement sous la souveraineté Espagnole dans les Indes Occidentales; à cet effet chacun des deux Gouvernements nommera, dans les dix jours qui suivront la signature de ce protocole, des commissaires, et les commissaires ainsi nommés devront. dans les trente jours qui suivront la signature de ce protocole, se rencon-trer à la Havane afin d'arranger et d'exécuter les détails de l'évacuation sus-mentionée de Cuba et des îles Espagnoles adjacentes; et chacun des deux Gouvernements nommera également, dans les dix jours qui suivront la signature de ce protocole, d'autres commissaires qui devront, dans les trente jours de la signature de ce protocole, se rencontrer à San Juan de Porto Rico afin d'arranger et d'exéc-uter les détails de l'évacuation sus-mentionnée de Porto Rico et des autres îles actuellement sous la souveraineté Espagnole dans les Indes Occidentales.

#### ARTICLE V.

Les Etats-Unis et l'Espagne nommeront, pour traiter de la paix, cinq meront, pour traiter de la paix, einq commissaires au plus pour chaque pays; les commissaires ainsi nommés devront se rencontrer à Paris, le 1 r Octobre 1898, au plus tard, et procéder à la négociation et à la conclusion d'un traité de paix; ce traité sera suitet à ratification colon les fermes en sujet à ratification, selon les formes constitutionnelles dechacun des deux pays.

#### ARTICLE VI.

A la conclusion et à la signature de A la conclusion et a la signature de ce protocole, les hostilités entre les deux pays devront être suspendues, et des ordres à cet effet devront être domés aussitôt que possible par cha-cun des deux Gouvernements aux commandants de ses forces de terre

et de mer. Fait à Washington, en double exemplaire, anglais et français, par les Soussignés qui y ont apposé leur sig-nature et leur sceau, le 12 Août, 1898.

WILLIAM R. DAY.

JULES CAMBON.

# APPENDIX II.

SEAL.

SEAL.

#### TRUATY OF PEACE.

The United States of America and Her Majesty the Queen Regent of Spain, in the name of her august son Don Alfonso XIII, desiring to end the state of

in the name of her august son Don Alfonso XIII, desiring to end the state of war now existing by tween the two countries, have for that purpose appointed as plenipotentiaries:

The President of the United States,
William B. Day, Cushnau K. Dayis, WILLIAM P. FRYE, George Gray, and Whitelaw Reid, citizens of the United States;
And Her Majesty the Queen Regent of Spain,
Don Eugenio Montero Rios, president of the senate; Don Buenaventura de Abarzuza, senator of the Kingdom and ex-minister of the Crown; Don José de Garnica, deputy to the Cortes and associate justice of the supreme court; Don Wenceslao Ramirez de Villa-Urrutia, envoy extraordinary and minister potentiary at Brussels, and Don Rafael Cerero, general of division;

Who, having assembled in Paris, and having exchanged their full powers, which were found to be in due and proper form, have, after discussion of the matters before them, agreed upon the following articles:

#### ARTICLE I.

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

#### ARTICLE II.

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

#### ARTICLE III.

ARTICLE III.

Spain cedes to the United States the archipelago known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (18th) to the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty-seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty-five minutes (4° 45′) north latitude, thence along the parallel of four degrees and forty-five minutes (1° 4° 4°) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 3°). five minutes (4° 48′) north latitude to its intersection with the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty-five minutes (119° 35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40′) north, thence along the parallel of latitude of seven degrees and forty minutes (7° 40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United Statts will pay to Spain the sum of twenty million dollars (\$20,600,000) within three months after the exchange of the ratifications of the present treaty.

the present treaty.

#### ARTICLE IV.

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

#### ARTICLE V.

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, where the restored to present the Philipping as well as the island of Chapter than 19 to the present the Philipping as well as the island of Chapter than 19 to the present the Philipping as well as the island of Chapter than 19 to the present the Philipping as well as the island of Chapter than 19 to the present the Philipping as well as the island of Chapter than 19 to the present than 19 to t

proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the protocol of August 12, 1888, which is to continue in force till its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibers, with their carriages and accessories, powder, ammunition, live stock, and materials and supplies of all kinds, belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artiliery, in the fortifications and coast defenses, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the meantime, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

#### ARTICLE VI.

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offenses, in connection with the insurrections in Cuba and the Philippines and the war with the United States

Reciprocally, the United States will release all persons made prisoners of 5253

war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

#### ARTICLE VII.

The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

#### ARTICLE VIII.

In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public domain, and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be to which the preceding paragraph refers can not in any respect in

And it is nevely declared that the reinquisiment or cession, as the case may be, to which the preceding paragraph refers, can not in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renunced or ceded, or of private individuals, of whatsoever nationality such

individuals may be.

The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of

the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts, wills, and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

#### ARTICLE IX.

Spanish subjects, natives of the peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovere gnty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce, and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decisions to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress. Spanish subjects, natives of the peninsula, residing in the territory over

#### ARTICLE X.

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

#### ARTICLE XI.

The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well 5253

as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts and to pursue the same course as citizens of the country to which the courts belong.

#### ARTICLE XII.

Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules

Sovereignty shall be determined according to the following rules:

1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be fixel, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending or in the court that may be substituted.

which they may then be pending or in the court that may be substituted

3. Criminal actions pending on the date mentioned before the supreme court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall be committed to the competent authority of the place in which the case arose.

#### ARTICLE XIII.

The rights of property secured by copyrights and patents acquired by Spaniards in the island of Cuba and in Porto Rico, the Philippines, and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary, and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty. of this treaty.

#### ARTICLE XIV.

Spain will have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

# ARTICLE XV.

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels not engaged in the

Coastwise trade.
This article may at any time be terminated on a six months' notice, given by either Government to the other.

#### ARTICLE XVI.

It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will, upon the termination of such occupancy, advise any government established in the island to assume the same obligations.

#### ARTICLE XVII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective plenipotentiaries, have signed this treaty and have because affixed our sollar.

treaty, and have hereunto affixed our seals. Lor

| Done in duplicate at Paris the 10th day | of December, in the year of our |
|---|---------------------------------|
| rd, 1898.                               |                                 |
| SEAL.]                                  | WILLIAM R. DAY.                 |
| SEAL.                                   | CUSHMAN K. DAVIS.               |
| SEAL.                                   | WILLIAM P. FRYE.                |
| SEAL.                                   | GEO. GRAY.                      |
| SEAL.                                   | WHITELAW REID.                  |
| SEAL.                                   | EUGENIO MONTERO RIOS.           |
| SEAL.                                   | B. DE ABARZUZA.                 |
| SEAL.                                   | J. DE GARNICA.                  |
| SEAL.                                   | W. R. DE VILLA URRUTIA.         |
| SEAL.                                   | RAFAEL CERERO.                  |
| SEAL.                                   | ZUILL IIIII CIIII               |

5953

#### APPENDIX III. ORDER OF PRESIDENT M'KINLEY.

EXECUTIVE MANSION, Washington, December 21, 1898.

SIR: The destruction of the Spanish fleet in the harbor of Manila by the United States naval squadron commanded by Rear-Admiral Dewey, followed by the reduction of the city and the surrender of the Spanish forces, practically effected the conquest of the Philippine Islands and the suspension of Spanish sovereignty therein.

With the signature of the treaty of peace between the United States and

cally effected the conquest of the Philippine Islands and the suspension of Spanish sovereignty therein.

With the signature of the treaty of peace between the United States and Spain by their respective plenipotentiaries at Paris, on the 10th instant, and as the result of the victories of American arms, the future control, disposition, and government of the Philippine Islands are ceded to the United States. In fulfillment of the rights of sovereignty thus acquired and the responsible obligations of government thus assumed, the actual occupation and administration of the entire group of the Philippine Islands become immediately necessary, and the military government heretofore maintained by the United States in the city, harbor, and bay of Manila is to be extended with all possible dispatch to the whole of the ceded territory.

In performing this duty, the military commander of the United States is enjoined to make known to the inhabitants of the Philippine Islands that in succeeding to the sovereignty of Spain, in severing the former political relations of the inhabitants, and in establishing a new political power, the authority of the United States is to be exerted for the security of the persons and property of the people of the islands and for the confirmation of all their private rights and relations.

It will be the duty of the commander of the forces of occupation to announce and proclaim in the most public manner that we come, not as invaders or conquerors, but as friends, to protect the natives in their homes, in their employments, and in their personal and religious rights. All persons who, either by active aid or by honest submission, cooperate with the Government of the United States to give effect to these beneficent purposes, will receive the reward of its support and protection. All others will be brought within the lawful rule we have assumed, with firmness, if need be, but without severity, so far as may be possible.

Within the absolute domain of military authority, which necessarily is and mu

given.

All ports and places in the Philippine Islands in the actual possession of the land and naval forces of the United States will be opened to the commerce of all friendly nations. All goods and wares not prohibited for military reasons, by due announcement of the military authority, will be admitted upon payment of such duties and other charges as shall be in force at the time of their importation.

Finally, it should be the earnest and paramount aim of the military administration to win the confidence, respect, and affection of the inhabitants of the Philippines by assuring to them in every possible way that full measure of individual rights and liberties which is the heritage of free peoples, and by proving to them that the mission of the United States is one of benevolent assimilation, substituting the mild sway of justice and right for arbitrary rule. In the fulfillment of this high mission, supporting the temperate administration of affairs for the greatest good of the governed, there must be sedulously maintained the strong arm of authority to repress disturbance and to overcome all obstacles to the bestowal of the blessings of good and stable government upon the people of the Philippine Islands under the free stable government upon the people of the Philippine Islands under the free flag of the United States.

WILLIAM MCKINLEY.

#### APPENDIX IV.

# PROCLAMATION OF PHILIPPINE COMMISSION.

To the people of the Philippine Islands:

The treaty of peace between the United States and Spain, ratified several weeks ago by the former, having on March 20 been ratified by the latter, the cession to the United States, as stipulated by the treaty, of the sovereignty which Spain possessed and exercised over the Philippine Islands has now, in accordance with the laws of nations, received a complete and indefeasible consummation.

In order that the high responsibilities and obligations with which the United States has thus become definitively charged may be fulfilled in a way calculated to promote the best interests of the inhabitants of the Philippine Islands, His Excellency the President of the United States has appointed the

Islands, His Excellency the President of the United States has appointed the undersigned a civil commission on Philippine affairs, clothing them with all the powers necessary for the exercise of that office.

The Commission desire to assure the people of the Philippine Islands of the cordial good will and fraternal feeling which is entertained for them by His Excellency the President of the United States and by the American people. The aim and object of the American Government, apart from the fulfillment of the selemn obligations it has assumed toward the family of nations by the acceptance of sovereignty over the Philippine Islands, is the well-being, the prosperity, and the happiness of the Philippine people and their elevation and advancement to a position among the most civilized people of the world. the world.

the world.

His Excellency the President of the United States believes that this felicity and perfection of the Philippine people is to be brought about by the assurance of peace and order; by the guaranty of civil and religious liberty; by the establishment of justice; by the cultivation of letters, science, and the liberal and practical arts; by the enlargement of intercourse with foreign nations; by the expansion of industrial pursuits, trade, and commerce; by the multiplication and improvement of the means of internal communication; by the development, with the aid of modern mechanical inventions, of the great natural resources of the archipolago; and in a word by the principles. the great natural resources of the archipelago; and, in a word, by the uninterrupted devotion of the people to the pursuit of those useful objects and the realization of those noble ideals which constitute the higher civilization of mankind.

Unfortunately, the pure aims and purposes of the American Government and people have been misinterpreted to some of the inhabitants of certain of the islands. As a consequence, the friendly American forces have, with-

of the islands. As a consequence, the friendly American forces have, without provocation or cause, been openly attacked.

And why these hostilities? What do the best Filipinos desire? Can it be more than the United States is ready to give? They are patriots and want liberty, it is said. The Commission emphatically assert that the United States is not only willing, but anxious, to establish in the Philippine Islands an enlightened system of government under which the Philippine people may only the largest measure of home rule and the amplest liberty consonant with the supremeends of government and compatible with those obligations which the United States has assumed toward the civilized nations of the world. the world.

The United States striving earnestly for the welfare and advancement of the inhabitants of the Philippine Islands, there can be no real conflict bethe inhabitants of the Philippine Islands, there can be no real conflict between American sovereignty and the rights and liberties of the Philippine people, for, just as the United States stands ready to furnish armies, navies, and all the infinite resources of a great and powerful nation to maintain and support its rightful supremacy over the Philippine Islands, so it is even more solicitous to spread peace and happiness among the Philippine popple; to guarantee them a rightful freedom; to protect them in their just privileges and immunities; to accustom them to free self-government in an ever-increasing measure, and to encourage them in those democratic aspirations, sentiments, and ideals which are the promise and potency of a fruitful national development. ful national development.

It is the expectation of the Commission to visit the Philippine peoples in It is the expectation of the Commission to visit the Philippine peoples in their respective provinces, both for the purpose of cultivating a more intimate mutual acquaintance, and also with a view to ascertaining from enlightened native opinion what form or forms of government seem best adapted to the Philippine peoples most apt to conduce to their highest welfare, and most conformable to their customs, traditions, sentiments, and cherished ideals. Both in the establishment and maintenance of government in the Philippine Islands it will be the policy of the United States to consult the views and wishes, and to secure the advice, cooperation, and aid of the Philippine people themselves.

Philippine people themselves.

In the meantime the attention of the Philippine people is invited to certain regulative principles by which the United States will be guided in its relations with them. The following are deemed of cardinal importance:

"1. The supremacy of the United States must and will be enforced

throughout every part of the archipelago, and those who resist it can accom-

plish no end other than their own ruin.

"2. The most ample liberty of self-government will be granted to the Philippine people which is reconcilable with the maintenance of a wise, just, stable, effective, and economical administration of public affairs, and compatible with the sovereign and international rights and obligations of the United States.

3. The civil rights of the Philippine people will be guaranteed and protected to the fullest extent: religious freedom assured, and all persons shall have an equal standing before the law.

have an equal standing before the law.

"4. Honor, justice, and friendship forbid the use of the Philippine people or islands as an object or means of exploitation. The purpose of the American Government is the welfare and advancement of the Philippine people.

"5. There shall be guaranteed to the Philippine people an honest and effective civil service, in which, to the fullest extent practicable, natives shall

be employed

be employed.

"6. The collection and application of taxes and revenues will be put upon a sound, honest, and economical basis. Public funds, raised justly and collected honestly, will be applied only in defraying the regular and proper expenses incurred by and for the establishment and maintenance of the Philippine government, and for such general improvements as public interests may demand. Local funds, collected for local purposes, shall not be diverted to other ends. With such a prudent and honest fiscal administration, it is believed that the needs of the government will in a short time become compatible with a considerable reduction in taxation.

"7. A pure, speedy, and effective administration of justice will be established, whereby the evils of delay, corruption, and exploitation will be effectually evadicated.

"7. A pure, speedy, and effective administration of justice will be established, whereby the evils of delay, corruption, and exploitation will be effectually eradicated.

"8. The construction of roads, railroads, and other means of communication and transportation, as well as other public works of manifest advantage to the Philippine people, will be promoted.

"9. Domestic and foreign trade and commerce, agriculture, and other industrial pursuits, and the general development of the country in the interest of its inhabitants wil be constant objects of solicitude and fostering care.

"10. Effective provision will be made for the establishment of elementary schools in which the children of the people shall be educated. Appropriate facilities will also be provided for higher education.

"11. Reforms in all departments of the government, in all branches of the public service, and in all corporations closely touching the common life of the people must be undertaken without delay and effected, conformably to right and justice, in a way that will satisfy the well-founded demands and the highest sentiments and aspirations of the Philippine people."

Such is the spirit in which the United States comes to the people of the Philippine Islands. His Excellency the President has instructed the Commission desire to join with His Excellency the President in expressing their own good will toward the Philippine people, and to extend to their leading and representative men a cordial invitation to meet them for personal acquaintance and for the exchange of views and opinions. quaintance and for the exchange of views and opinions,

MANILA, April 4, 1800.

JACOB GOULD SCHURMAN. President of Commission. GEORGE DEWEY,
Admiral U.S.N.

ELWELL S. OTIS, Major-General, U. S. Volunteers. CHARLES DENBY DEAN C. WORCESTER.

JOHN R. MACARTHUR, Secretary of Commission. 5253

# Monday, June 2, 1902.

Mr. Lodge having offered an amendment to the bill providing a civil government for the Phillppine Islands,

Mr. FORAKER said:

Mr. President: I have no doubt the amendment is a proper one to make. I shall support it. But before it is passed upon I desire to take advantage of this opportunity to make some remarks which I have been struggling for several days to find opportunity to make, but unavailingly.

In the course of some remarks I made in this Chamber on the 14th day of May I had occasion to make use of some editorials from various Democratic newspapers over the country. Among others I made use of some editorials taken from the Denver News, for which editorials the junior Senator from Colorado [Mr. Pat-

TERSON has told us he is responsible.

I made use of those editorials, Mr. President, as I announced at the time, only for the purpose of defending the action of the Administration of President McKinley in acquiring and retaining the Philippine Islands and in pursuing the policy which has been pursued there ever since we came into possession of them. I had no thought in making use of those editorials of misquoting anybody, or of putting anyone in any false light, or of misrepresent-

ing in any sense the position of anyone.

I did not undertake, and I did not pretend, when I was making use of those editorials, to quote all the editorials in any one of the many papers I quoted from, neither did I undertake to quote all of any editorial from which I made quotation. I did not feel that it was necessary that I should do so, any more than I would deem it necessary, if I should see fit to make a quotation from the speech made by the Senator from Colorado, to which I am going to say something in reply, to quote his whole speech. I quoted enough, as I thought, to properly and fairly show the views entertained at that time by those from whom I quoted, and I so announced.

My quotations were necessarily brief, because I did not want to encumber the Record nor encumber my speech with unduly extended quotations from even so able an editorial writer as is

the editorial writer for the Denver News.

Notwithstanding I made that announcement, when the junior Senator from Colorado came to make his speech a few days later he took occasion to say that I had omitted to quote an editorial published in his paper on the 2d day of December, 1898; that I had omitted to quote from certain other editorials which had appeared in his paper, and that I had not quoted all of the editorials from which I had taken extracts, and he stated in that connection that I was guilty of a lack of candor and a lack of frankness in making these omissions, and insisted upon that, although I at the time called his attention to the language he employed.

I quote as follows from the speech of the Senator from Colorado:

It is a matter of little moment who wrote the editorials in question. It is sufficient for me to say that I control the paper. I was then and I am now responsible for all its editorial utterances.

But, Mr. President, I have something to say about these editorials in addition to what the Senator from Ohio has said. Until about the 1st day of December, 1898—some two months before the ratification of the Spanish treaty—I favored holding the Philippines and I advocated the government of the Philippines by the United States.

I would not take any time upon this subject were it not that I feel I am I would not take any time upon this subject were it not that I feel I am but a type of hundreds of themsands of the American people in their changing views upon our duty in the Philippines, commencing with the destruction of the Spanish fleet in Manila Bay, proceeding with the treaty of peace, the annexation of the islands, and the government of those islands, accompanied by their subjugation. It would be a waste of time upon my part to continue reference to these matters if I could not in a proper way show how those views came to be held, what brought about a change in views, if a change occurred, and what it was that led to the stand and induced the changes of wind. mind.

I said that up to the 1st day of December the News consistently advocated the holding of the Philippine Islands, but from that time, commencing with the 2d day of December, two months before the ratification of the treaty, the News and myself, to the best of our ability, advocated a change of policy and stood for the independence of the Philippine Islands and in opposition to all of the conduct that has marked the possession of them by the United

States since.

I call the attention of the Senator from Ohio to the fact that at the time the change I referred to occurred there was no election pending. The election of 1898 had but just occurred, and none was to be held for nearly

two years.

There was no Democratic President in office; there was no patronage to seek; there were no friends to reward; it was almost two years from a Presidential election. I can say with truth that the change was made out of no other cause than that of an honest conviction that the policy the Administration had adopted was a bad one both for our country and the archipelago.

Later, in the course of the Senator's speech, the following colloguy occurred:

Mr. Foraker. The Senator will excuse me for interrupting him. I was unavoidably occupied for the moment, and I did not get the date of the change given by the Senator.

Change given by the Senator.

Mr. PATTERSON. The latter part of November, or early in December.

Mr. FORAKER. Eighteen hundred and ninety-eight?

Mr. PATTERSON. Yes, sir; in 1898.

Mr. FORAKER. I understood the Senator to state that he himself and his paper, the Denver News, advocated the acquisition and retention of the Philippine Islands down to November or the beginning of December, 1898.

Mr. Patterson. Yes.
Mr. Foraker. And that at that time both changed?
Mr. Patterson. Yes.

Mr. FORAKER. But that neither the Senator, as the owner and the responsible party connected with the paper, nor the paper itself, has advocated that

policy since?
Mr. PATTERSON. Never since; and I say that in the face of the editorials printed in the Denver News in the month of February and read by the Senator; and I will show to the Senate that in reading these editorials the Senator from Ohio was not candid, for he omitted editorials and omitted parts of editorials that would have shown the matter differently from what he sought

Further along he emphasized this statement, as follows:

Further along he emphasized this statement, as follows:

As to the putting of other editorials in the Record, I will say that until the latter part of November, 1898, the Senator will find many editorials in the News that he did not read along the same line as those that he did read; but after the latter part of November he will find none that point in that direction. Those that he read and many that he omitted, printed after November, 1898, show beyond peradventure the attitude of the paper to be as I state. I find in going over the pages of the Denver News that the identical articles I have in mind bore somebody's check mark, as if whover had gone over the files for the purposes of the Senator from Ohio had checked them off and knew what they were.

Now, Mr. President, let me not be misunderstood. Until the latter part of November, 1898, it was as I have stated; but on the 2d day of December the first editorial opposing expansion was printed, and that editorial had a check mark upon it which indicated that it had been seen; but that editorial was not quoted. The honorable Senator skipped the editorial of December 2 and went to the editorial of December 2. So that Senators may pass judgment upon it. It is entitled "Management of the Philippines."

He stated further that if I had quoted all of these editorials

He stated further that if I had quoted all of these editorials and all of each of the editorials I quoted from it would have been made to appear plainly, as he then asserted without qualification. that from and after the 2d day of December, 1898, neither he nor

his paper, although they favored the ratification of the treaty, and in that way the acquisition of the Philippine Islands, eyer favored for the Filipinos anything except only the independence of the Filipinos occupying those islands. In other words, he said they changed their policy on the 2d day of December, 1898, and so announced, and that I ought to have made that appear.

His attention was called to some editorials quoted by me on the 6th and 7th days of February, immediately after the fighting at Manila had commenced. He admitted that they were of the same general character as those appearing before the 2d day of December, 1898, but said at the time when they were published he was under the erroneous impression that the Filipinos were the aggressors instead of the Americans being the aggressors, as he says he has since learned, and that immediately thereafter, as soon as he learned of the facts, he again changed back to the position he had taken on the 2d day of December, 1898, and never, with the exception of these two or three editorials in February, having relation to that conflict at Manila, has there appeared in his paper anything except only a consistent demand for the independence of the Filipinos.

Mr. President, under such a challenge as that, for that is what it amounts to, if that is not too harsh a term, I have taken occasion to examine the files of the Denver News, in order, in the first place, that I might do justice to the Senator from Colorado, if I have done him any injustice, by correcting what I have said and by supplying anything I have omitted that I should not have

omitted.

Instead of the Senator from Colorado being sustained by the result of that examination, I find that whatever may have been my lack of candor or frankness, the record will make a pretty strong charge in that respect against the junior Senator from Colorado, if he knew at the time when he made the statement he did of what had appeared in his own newspaper and most of which had probably been written by him, for, Mr. President, omitting very much that I would under other circumstances elaborate and dwell upon if I had the time, I find instead of taking a departure, and so announcing on the 2d day of December, 1898, the Senator took no such departure at that time, but simply on that day commenced to wobble. Up to that time he had been a firm, unqualified, enthusiastic, and zealous advocate of the acquisition and retention of the Philippine Islands and the subordination of everybody there to the authority of our Government, but on that date the Senator in the long editorial, which he himself has put into the RECORD, and to which I point for proof of what I say, after discussing the various troublesome questions arising in consequence of our acquisition, stated in conclusion the various claims of various people as to what should be our policy, but does not align himself with either one of the parties from whom he quotes, or either of the classes from whom he quotes as to what this policy was thereafter to be, and does not announce or even intimate a change of attitude. All that indicates that he was probably "wavering" is his parade of the troubles we were to be called on to meet.

The last paragraph of this editorial shows all I state. I quote

it, as follows:

These are but a few of the perplexing questions connected with the possession of our new accessions. What to do with them or how to manage them is, therefore, a problem worthy of the best thought of the best Amer-

icans. There are those who suggest that what should be done is, having ratified the treaty, we proceed as rapidly as possible to give freedom to the Philippines. Establish an American protectorate, make person and property secure, require political and religious freedom, and their people, in the setting up of a republic, see that the republic is maintained, obtain reasonable commercial and other advantages to the United States that shall be epretual, retain ample facilities for coaling stations and cable terminals there and in the Ladrones and Carolines. Startle the civilized world with the most sublinely grand and magnanimous national deed that history has ever recorded.

West a ration from its oursessors and say to it. "Now you are face." Wrest a nation from its oppressors and say to it, "Now you are free."

That the Senator was, at most, only wavering is shown by the following editorial, which appeared in the Denver Daily News. December 21, 1898:

TELLER AND THE PHILIPPINES.

It is a proof of the newness of the problems involved in the Philippine question that neither the President nor any of his responsible advisers nor Mr. Bryan nor Mr. Teller nor any other man in high position has attempted to outline a positive plan for the disposition of the islands. As yet eare'so far from discussing details that the chief principles have scarcely been

It is manifest from this editorial that the Senator was in doubt, and that others upon whom he had been accustomed to rely as to political policies were also in trouble as to what should be our policy in the Philippines. It may be that the doubt or trouble that finds this expression in his paper on the 21st of December was caused by an interview with Mr. Bryan published a few days before, and with respect to which, on the 15th of December, 1898, the Denver News editorially said:

Mr. Bryan is opposed to expansion in the sense of acquiring territory at a great distance, in a tropical latitude, and peopled by tropical races. His opinion is worthy of respect. We know that he is not the man to reach any conclusion which is not based upon earnest thought and a desire to be right. In arranging the final disposition of the Philippines it may be that a plan can be found which will secure for the United States the benefits while

avoiding the perplexities of complete sovereignty.

This doubt and uncertainty continued without any change, so far as the examination I have made discloses, until the February as the examination I have made discusses, that the rebutary editorials quoted in my former speech. They were, it will be remembered, very warlike. But they did not long continue. He again began to waver. I say "waver," because I do not observe any positive change of attitude. The Senator has told us that he not only changed, but why. Whatever the cause may be, it is at least a coincidence worthy of note that on the 12th day of February, Mr. W. J. Bryan, with his accustomed ability and earnestness, in a signed interview that appeared in all the papers, reviewed the situation as to the Philippines and raised the cry of imperialism, with the manifest purpose of making it a national party issue. This interview did not lay down in precise terms what the Democratic policy would be, but closed with this significant statement:

What next? Investigation, discussion, action.

That was the position of Mr. Bryan on the 12th day of February, 1899, immediately after the ratification of the treaty. Investigation, discussion, and then action. What action he only indicated. The interview was a warning to all Democrats not to go too far in the support of the Government's Philippine policy.

The Denver News, following that interview, in a series of editorials commenced to discuss and to investigate. One of these, which is characteristic of all and which shows how perplexed the editorial mind seemed to be, appeared in the paper, entitled

"Filipinos are fighters." In it he went on to point out the very great difficulty ahead of us to conquer the Filipinos and subject everybody in the Philippine Islands to the authority of the United States. I would be glad to read it in full, but I will put it in the RECORD as a part of my remarks, and now only call attention to it, as I must do as to others, with the remark that even in connection with this there is no taking of any definite, pronounced position by this paper.

The article referred to is as follows:

[Denver Daily News, March 29, 1899.] FILIPINOS ARE FIGHTERS.

Aguinaldo's insurgents are putting up a desperate fight. They are aided by the heat and the character of the country. Where they obtained so large a supply of modern arms and ammunition is a mystery in this country, although it may be known in official circles. The campaign is demonstrating the heroism and gallantry of the American soldiers, both volunteers and regulars. The insurgents will be beaten and the authority of the United States fully established in the islands. Whatever criticisms may be passed on the diplomacy that led up to this campaign, the direct result was the attack on our lines by Aguinaldo. That has left nothing to do but to fight it out.

Mr. FORAKER. Passing much that I would like to use, I come to April 5, 1899. The fighting commenced in February, 1899, and that is when the Denver News went back to the zealous advocacy of the assertion of our authority and the subordination of every-

body in the Philippine Islands to it.

Immediately following that fighting, on the 12th of February, 1899, Mr. Bryan put out his interview, and then, as I said, the character of the editorials to which I have referred, which were not pronounced as to a definite policy but were only of a wavering and uncertain character, followed until this editorial of April 5, 1899. I will put this editorial in the Record to show whether after the 2d day of December, 1898, there was an advocacy of the independence at all times of the Filipinos in this paper.

Before I read it let me call attention to the fact that on the 1st day of April, 1899, just after the editorial was put out describing the Filipinos as such great fighters that it would be perhaps impossible, or well-nigh so, to conquer them, we captured Malolos, and the next thing the Denver News heard from the seat of war was that the capital of the insurgents had been captured and that their army had been put to rout, and it looked as though the whole thing was at an end. Now, see the character of the edi-

torial we have:

[Editorial, Denver Daily News, April 5, 1899.]
THE FILIPINO CAMPAIGN.

The campaign in the Philippines may be regarded as ended. Aguinaldo's army is disbanding, and he is to all intents and purposes a fugitive. The most hopeful sign of the situation is the returning of the natives to their homes and the decoration of their houses with white flags. They were doubtless to a large extent terrorized by Aguinaldo and his army, and now that it is so completely beaten and disorganized and having seen practical demonstrations of American fighting, they will be all the more willing to submit to the authority of the United States. In all respects this campaign has been a brilliant one and has displayed the capacity of the American soldier for war. To officers and privates alike let full honor and praise be given.

Now that the natives are convinced of the power of the United States and of its stern determination to maintain that power, it ought to be an easy matter to pacify the islands and assure their inhabitants of the pacific intentions and beneficent purposes of the American Government. The Com-

nission—

That is the Schurman Commission—

has arrived there at an opportune time, and is able to definitely announce the intentions and desires of this Government.

If they did announce those intentions and had announced those intentions, it would be to establish our authority as supreme in the islands.

This action ought to have a salutary effect on the Filipinos, who, freed from the odious tyranny and oppressive exactions and taxation of Spain, can look forward to a local government of their own, under the guidance and protection of the United States. But this guidance and protection must imply absolute obedience to the national power. This is the first lesson that the Filipinos must learn. Indeed, it is the first step that will enable them to become prepared for self-government. What liberty actually means they have not the remotest conception. When they know that it is a respect for law and order, for personal rights, and civic equality, then they will begin to appreciate the efforts that the United States is taking for the bettering of their condition. National independence is something beyond their ability to maintain at present, and can only come with the changed conditions that will follow American rule. To abrogate that now would be simply to open the archipelago to a prolonged war, in which every European power would strive to gain the mastery over them. This action ought to have a salutary effect on the Filipinos, who, freed

On the 7th day of April, 1899, he printed another editorial along the same line, entitled "Capacity for self-government," which is as follows:

#### CAPACITY FOR SELF-GOVERNMENT.

There is very much loose talk from the platforms and very many shallow editorials in various newspapers about self-government and independence for Cubans and Filipinos. Admitting that it all comes from the best of motives, the opinion must be expressed that much of it is based on the want of a proper knowledge or appreciation of existing conditions among those

peoples.

peoples.
Capacity for self-government is not a matter of sudden growth in any nation or among any people. It comes only as the result of long training and experience. In the new possessions which have fallen into our hands this lesson of self-government will have to be taught to their inhabitants. The native Cubans had thought that they would be permitted to retaliate on the Spanish residents for the tyranny they had suffered at the hands of the Madrid Government, and were surprised and indignant when they discovered that the United States would not permit such action. Their idea of freedom and independence was the privilege to practice the same despotism on others as they had endured. They did not understand that civil freedom to all means caual rights to all. means equal rights to all.

means equal rights to all.

The same is substantially true of the Filipinos. Many of them, and no doubt honestly, entertain the belief that American occupation means the same kind of a rule that Spain enforced. The proclamation of the American Commission ought to undeceive them. By it the United States is pledged to grant civil and religious liberty, local self-government, an efficient and economical administration of the revenues for local purposes, a strict and impartial administration of justice, educational privileges, and whatever else may contribute to the welfare and progress of the Philippine people. But how to conduct their own affairs and administer government so as to secure the results is something these people will have to learn by observation and experience.

tion and experience.

In the closing paragraph he employs this language:

In carrying to the people of these islands the gift of civil liberty and free institutions the United States can not be termed an oppressor. The talk of such men as convened in Boston the other evening is the rankest kind of lunacy. Freedom for any race or any people that do not know what freedom is and how to use it or what it means is the most dangerous and destructive thing that can be put in their hands.

I put this entire editorial in the RECORD so that I may not be

guilty of a lack of candor or frankness.

The PRESIDING OFFICER. The Senator's time has expired. Mr. FORAKER. Mr. President, I can not question the Chair, but I commenced just 2 minutes after half past 11 and it now lacks 2 minutes of being a quarter to 12. I noted the time with great care. I took up some of the time on the amendment which 

two minutes or four minutes, whichever it is.

Mr. FORAKER. I am much obliged to the Senator from Colo-

rado. If the Chair will let me have it I will hurry through.
The PRESIDING OFFICER. The Chair desires to say that the present occupant of the chair looked at the clock and thought that he was right in stating that the Senator's fifteen minutes had

Mr. FORAKER. I understand that I have four minutes fur-

ther, so that I will have time enough.

The PRESIDING OFFICER. The Senator from Ohio will pro-

ceed.

Mr. FORAKER. Mr. President, I will have to omit under pressure of want of time many of these editorials that I wanted to put in the RECORD. This one, and I call the attention of my distinguished friend, the Senator from Massachusetts [Mr. HOAR], to it, is an editorial in which a great many liberties are taken with a distinguished citizen of his State. I am reading it in order that the Senate may see its spirit and may determine whether in this paper there was nothing but an advocacy of independence for the Filipinos from and after December 2, 1898. He says as to Edward Atkinson.

# [Editorial. Denver Daily News, May 3, 1899.] EDWARD ATKINSON-TRAITOR.

Edward Atkinson has laid himself liable to an indictment and prosecution Edward Atkinson has laid himself liable to an indictment and prosecution for treason. This notorious resident of Boston has long been a public nuisance. As an adept at making figures lie, he is the most successful man who ever posed as an "economist." For several years he has been denouncing the advocates of free silver coinage as "anarchists" and "repudiationists," and as men who would "betray the national honor," for no other reason than that they demanded a return of the national policy to the system of coinage and finance established by Hamilton and Jefferson during the Presidency of Washington Washington.

Washington. Having apparently exhausted his vocabulary of hard names and tirado perhaps of prevarication on the silver issue, he has more recently turned his attention to the expansion question, and with the same want of sonse that has characterized his treatment of free silver coinage, he has abused and misrepresented all who differed from him, going at last one step too far and laying himself liable to an action for treason. In this case it is to be hoped that the United States district attorney will be instructed to proceed against him.

him.

This is a country of free speech and free thought, and Mr. Atkinson has, with other citizens of the United States, a perfect right to enjoy those privileges. But when it comes to inciting mutiny and sedition among the soldiers of the United States, and to advising and encouraging rebellion against the authority of the United States, that is different. Such action is treasonable. The question is not whether expansion or antiexpansion is the proper national policy—that is a fair matter of discussion, and upon it the best of citizens and patriots may disagree; but no good citizen, no sincere patriot will, as this man Atkinson is charged with doing, incite mutiny, sedition, insurrection, or rebellion against the civil or military power of the National Government. If, as seems to be a well-established fact, Atkinson has done this, let him be punished as the law directs.

The sending of this man to the penitentiary and the consequent stopping of his antisilver, antisypansion, alleged "economic" fulminations in the press and magazines would be a national benefit. It would abate a common nuisance and place beyond the power of doing further harm to many people the most accomplished mathematical liar of the age.

most accomplished mathematical liar of the age.

Now, Mr. President, I have almost concluded what I wish to put into the Record. My time is up. I suppose, however, under the walk I have a like the same than the same almost concluded what I wish to put into the same almost concluded what I wish to put into the same almost concluded what I wish to put into the same almost concluded what I wish to put into the same almost concluded what I wish to put into the Record. der the rule I have a right to move to amend this amendment and to speak on that motion.

Mr. BERRY. Oh, no, Mr. President: there was no such understanding as that Senators could move amendments and continue

their speeches upon them.

Mr. ALLISON. I will suggest to the Senator from Ohio that

there will be some other amendments to be offered to the bill,

upon which he may be heard.

Mr. FORAKER. I can speak on any other amendment, I understand, but I am almost through with what I was going to say. I am not going to say as much as I intended to, owing to the rule of limitation of debate under which we are proceeding, but I shall be glad if I may be allowed to put in two or three editorials without reading.

Mr. LODGE. I take it there will be ample time for the Senator to speak when other amendments come in. But I should be glad to complete the committee amendments, so that we may have a reprint of the bill by to-morrow with all of the amend-

ments which have thus far been made.

Mr. FORAKER. Then, I will say, without stopping to read them, that if the Senate will give me leave to insert the other editorials to which I have referred so that they can appear in the RECORD I shall be content. I want them inserted together. They will show that the Denver News had many editorials long after the treaty was ratified in which it did not advocate the independence of the Filipinos, but the supreme authority of the United States.

The PRESIDING OFFICER. Is there objection? The Chair

hears none, and that order will be made.

The editorial articles referred to are as follows:

[Editorial, Denver Daily News, May 19, 1899.]

END IS NEAR.

It looks as if the end of the Filipino rebellion is near. The last move of

It looks as if the end of the Filipino rebellion is near. The last move of Aguinaldo in sending envoys to make peace on some terms indicates that he begins to realize that he is beaten and that the sooner he gives up the better. The Government has but one condition—unconditional surrender with a pledge of amnesty. Considering the long death roll and the cost of the campaign, no other nation on earth would grant such terms.

While these negotiations are going on Hale, Funston, and Lawton will be cleaning up the last remnants of the insurgent army. Gallant as other generals have shown themselves to be, Lawton is the man especially fitted to track down the scattering bands of Filipinos. His experience in the Apache campaign was a demonstration of his knowledge of this kind of warfare. Indifferent to hunger, thirst, fatigue, or hardship of any kind, not knowing what fear is, tireless in pursuit of an enemy, Geronimo said that Lawton never ate, never slept, "but all the heap fight." This is the man with the flying column, and the country need not be surprised at any time to hear that this Apache fighter has brought in Aguinaldo as a prisoner. If once directly on the trail of the insurgent chief, Lawton would follow him until he got him. A bloodhound is not more persistent than Lawton. he got him. A bloodhound is not more persistent than Lawton.

[Extract of editorial, Denver Daily News, May 21, 1899.]

THREE NATIONAL ISSUES.

The expansion question may or may not assume great prominence in the next campaign, and its particular form is still a matter of doubt. The present outlook is that it will be an object of criticism as to what has been done and the manner in which it was done, rather than a dispute as to what shall be done. If this shall be the case, it will be very far from a paramount issue, thus leaving the campaign to be fought out on silver and trusts and a clear issue to be made between the people and the money power.

[Editorial, Denver Daily News, May 26, 1899.]

TERMS OF PEACE.

Amnesty and local self-government—these are substantially the terms which the Government has offered the Filipino insurgents, and on which it insists on absolute surrender. It could offer nothing more. It could demand nothing less. The plan of government proposed is as liberal, if not more liberal, than Colorado enjoyed when it was a Territory, which New Mexico now enjoys, and which all of the Territories of the United States have always enjoyed. That Aguinaldo does not promptly accept the terms is a clear demonstration that he is a surface of the United States have always enjoyed. demonstration that he is using, or is now attempting to use, the Filipinos for

his personal advantage. He wants some promises for himself. He is not entitled to any such consideration. In view of the number of brave American lives for which he is responsible, he ought to be satisfied to have his own

lives for which he is responsible, he ought to be satisfied to have his own life spared.

With these terms now so thoroughly understood by Aguinaldo, his generals, and the Filipino insurgents generally, there should be no cessation in the fighting until the rebellion is stamped out. No more envoys should be received unless they come with an absolute acceptance of the Government's terms, and demonstrate their good faith by laying down their arms. Heretofore they have been playing for time. They are shrewd fellows, these Malays, and hoped to reorganize their demoralized forces while their envoys were quibbling over terms of peace. No matter where their envoys are or what they are pretending to do the campaign should go right on. Continuous war is the shortest road to a permanent peace. The Filipinos now fully understand the only terms they can get, and until they make up their minds to accept them, let the fighting proceed. to accept them, let the fighting proceed.

[Editorial, Denver Daily News, May 28, 1899.]

MATTER OF METHODS.

Recent cablegrams from Manila have indicated differences of opinion between Major-General Otis and the members of the Philippine Commission. How radical these differences were the country has been left to surmise, but a Washington correspondent, with excellent means of knowing, asserts that they are of no especial consequence, being only that difference as to methods which would naturally arise between a military man accustomed to "setrn measures" and civilians accustomed to "soft soap and diplomacy." This is probably the full extent of the alleged disagreement.

The average opinion of the country will be that General Otis is right. Before we can treat with these Filipinos, before peace and good order and civil government can be assured to these islands, before the sovereign power of the United States will be respected in the archinelago and the Orient. it Recent cablegrams from Manila have indicated differences of opinion be-

civil government can be assured to these islands, before the sovereign power of the United States will be respected in the archipelago and the Orient, it will be necessary to establish unchallenged American authority. Then it will be possible to show what self-government under the United States really is. Then the Filipinos can be made to realize that they have not Spaniards to deal with or Spanish methods to combat.

At the present time, therefore, the shortest and surest road to a permanent peace is to continue the tactics of Hale, Lawton, and Funston. Actions, not proclamations, are just at this stage of the game the best peace promoters in the Philippines. Having offered amests and local self-government, it is now

the Philippines. Having offered amnesty and local self-government, it is now necessary to convince them that our promises are not of the kind that formerly emanated from Madrid. The greatest stumbling-block in the way of the submission of the Filipinos is their experience of two centuries with the captain-generals of Spain.

52.3











# SENATOR FORAKER

# AT AKRON, OHIO,

# SEPTEMBER 27th, 1902.

FELLOW CITIZENS:

Broadly stated, the issue this year is the Republican Party against the Democratic Party. The one is in; the other is out. Shall the one that is in, be kept in, or shall the situation be reversed? Shall we continue existing policies, or shall we repudiate them? That is the question, and it should turn upon what these parties are respectively doing and proposing to do. It is not hard to answer for the Republican Party, but who can speak for

#### DEMOCRACY.

In 1896 they had a leader and a platform, but the people repudiated both. It was the same in 1900. Since then it has been different. W. C. Whitney was recently quoted as saying that they have neither a man to lead nor principles to espouse. The record lends confirmation to the statement.

In 1900 the Democrats of Ohio enthusiastically supported Mr. Bryan and his platform.

Last year they professed to take a departure and deserted and denounced both the man and his principles.

This year they turned about and renewed their allegiance. While they were making this record in Ohio they were doing the very opposite in Iowa. Last year they endorsed Bryan, but this year rejected him.

And thus it goes. Democracy is one thing here; another thing yonder. One thing this year—a different thing last year—something else next year. It lacks stability; it lacks sincerity; it lacks principles. Such a party is well fitted to stay out of power and criticise, but not at all fitted for the administration of public affairs.

The very opposite of all this is true of the

# REPUBLICAN PARTY.

It has been in power. It has been put to the test. Its works are known of all men. They speak for themselves. You have only to read history to know whether its professions have been sincere, and whether it has met successfully the great responsibilities it has been compelled to assume. Its achievements have challenged the admiration of the world. From the moment of its organization down to the present time it has gone steadily forward from one success to another, constantly growing in popularity and gaining in the confidence of the people, and at no time more so than when it has been out of power; for at such times experience with Democracy has but taught us to appreciate all the more highly the superior wisdom and excellence of Republican principles and policies. Its past is secure and will always so remain. But we do not ask to be continued in power on that account.

We stand upon

# THE LIVING PRESENT.

Do we come up to its requirements? Are we now keeping the faith?

It is not necessary to repeat the promises of our platform of 1896. Everybody knows what they were and that we have redeemed them. We promised to maintain the gold standard, and we have done so. We promised to restore the protective

tariff policy, and we did so. We promised by these methods to restore prosperity, and we have done so. Where all was paralysis we have the keenest business activity. Where there was only idleness and want there is employment and plenty for all who are willing to labor. Adverse balances of trade have been shifted to the other side of the ledger, and exhausting drains have been turned into floods of gold that pour in upon us with unceasing constancy from every direction. Notwithstanding an expensive war, an embarrassing deficiency has yielded to an embarrassing surplus, and the credit of our government has become the highest in the world. President Cleveland could not sell a small issue of 5 per cent. bonds at par without the help of a syndicate of Wall Street bankers, but to-day our 2 per cent. bonds are eagerly sought for at a premium; and yet our Democratic friends are dissatisfied! They stand in the midst of all this prosperity, sharing equally with us its rich blessings, but they are unable to speak one word of frank acknowledgment for its existence or of compliment for the wise statesmanship that has brought it about.

# DEMOCRATIC TEXT BOOK.

They have just issued a campaign text book.

It is a most remarkable publication. It professes to deal with the business conditions of the country, and to set forth the political issues of the day, and the claims of the two parties with respect thereto. It consists of 384 pages of closely printed matter, but you will read it in vain to find one word about the marvelous changes that have been wrought during the last five years in our economic conditions. Not one word can you find in it about our improved national credit—not one word about our super-abundant revenues—not one word about the phenomenal business activity that pervades the whole land—not one word about the universal employment of labor—not one word about the peace, happiness and contentment that reign everywhere throughout our broad country; but you will find page after page of dreary, doleful pes-

simism about strikes, and trusts, and the water-cure. It is all calamity! calamity! calamity!

# STRIKES.

It is true that along with all this prosperity we do have some strikes, but it is also true that we have never yet had a strike in this country on account of the enforcement of any policy of the Republican Party. All our strikes have been due to the fact that the employes have felt that they were not getting a fair division of a common prosperity; or that their condition in some other respect should be improved.

The trouble has always been between them and their employers, and never between them and the Republican Party. We have strikes also under Democratic administrations, but there is a difference between their strikes and ours. When the Republican Party is in power labor strikes, and when the Democratic Party is in power capital strikes.

Labor never strikes except when it is safe, and capital never strikes except when it is unsafe.

Every wageworker in the land knows that his services will be in demand so long as the Republican Party remains in power, and that if he knocks off from his work for a while it will be there waiting for him when he returns to it.

Every capitalist knows that the advent of the Democratic Party to power is a signal to the business public to take in sail. Republican strikes are but local and temporary interruptions, but Democratic strikes mean general stagnation and in many ways and places absolute paralysis and suspension of business. Under Republican strikes thousands go voluntarily into brief idlesness but under Democratic strikes tens of thousands are driven into enforced idleness and want of indefinite duration.

But no matter what may be the cause of a strike, all just men will deplore it, and no man or party of men should ever seek to make out of it any kind of political capital. 515

The same may be said of the

# TRUSTS.

They are not in any proper sense of the word a party question, and they can never be made so. For this reason I would ordinarily devote but little time to them. But the refusal of Speaker Henderson to be a candidate for re-election because of the attitude toward them of some Republicans in his district has brought the whole subject to the attention of the American people in such a way as to make apology for a few plains words unnecessary.

In the first place, trusts did not originate here, as a result of the tariff, but in England and European countries where they have free trade, and where they had trusts of every character long before they became common in America, and where today they are more numerous than they are in the United States. In the next place, what are to-day called trusts are generally nothing more than large corporations engaged, as a rule, in perfectly legitimate business, and as such they are but a natural evolution of modern industrial conditions. Democrats and Republicans alike promote them, organize them, hold stock in them, conduct them, and share in their benefits and advantages. They exist because there is a demand for them; not a political, but a business demand.

We have reached the point in our industrial and commercial development where we are able to supply all our home markets and have a large surplus besides. This surplus must be sold; if not at home, then abroad. If it can not be sold it will not long be produced. If not produced, then not only must our output be curtailed, but the pay-roll must be cut down. If the pay-roll is cut down, not only the wage-worker suffers, but the home market is correspondingly restricted and the farmer suffers a consequent falling off in the demand for his products. There is trouble all along the line.

Considerations of this character show that we must not re-

strict production, but must find additional markets. To find additional markets means that we must successfully compete with foreign countries. To do that we must manufacture at less cost, not only that we may undersell, but that we may have a margin for the transportation and exploitation of our goods and wares.

To do this we must economize. There are many ways to do that. One is to reduce wages, and thus lessen the cost of manufacture. The Republican Party is unalterably opposed to that. We raised wages to their present high standard and we propose to keep them there.

Another way to economize is by consolidation. This has objectionable features, but they are far less objectionable than the reduction of wages.

By consolidating many establishments into one you make a large capital and create a concentrated power of money, which, in the hands of unscrupulous men, may be used to the injury of the public welfare. Because there 'may be this improper use it is appropriate to so legislate as to prevent it, just as we legislate to prevent too great a speed in the running of railroad trains, street cars, and automobiles, or to prevent the great dangers to property and life that attend the use of electric current, gunpowder and dynamite; but, as no one would think of prohibiting or destroying railroads, or street cars, or automobiles, or electric light and power plants, or gun powder or dynamite, by legislation, so too no one who has any sense would think of so legislating as to prohibit or destroy large combinations of capital necessary for the conduct of legitimate enterprises.

They have become a feature of modern business conditions the world over, and in consequence, they are a special necessity here, in the United States, where we are compelled to invade and capture foreign markets or slacken the pace at which we are going in the employment of labor and the development of our resources.

The Republican Party, recognizing this fact, will correct evils and prevent and punish abuses, but it will not hamstring the business of the country to please Mr. Bryan or anybody else.

While it remains in power it will continue, on the contrary, to inaugurate and uphold policies that will give employment to both labor and capital alike, remembering that both must flourish or neither can.

On such subjects Mr. Bryan is an unsafe and discredited adviser. If he had been elected in 1896 and his policies, instead of William McKinley's, had been inaugurated, we would have been to-day in the free silver class of nations with China and Mexico, struggling to hold our own markets instead of invading and capturing those of other countries. We would not to-day have in our favor the largest balance of trade ever known since the beginning of history. We would not have in our vaults the largest amount of gold ever possessed by any government or any people. We would not stand, as we do, at the head of all nations in wealth and credit.

It would be strange, indeed, if with such advantages there did not at the same time come some disadvantages. All great evolutions and changes are likely to work some injury as well as good. So it is with the changes now being wrought. Consolidation involves more or less of displacement and rearrangement. There must be more or less change of occupation for those who are employed, and more or less of abandonment of what has been in use because of the substitution of something better; but this is only history repeating itself. The cotton gin, the sewing machine, the typewriter, the use of steam and the electric current, all alike worked similar results; but who would retrace these steps of progress on that account?

It has been only a few years since to travel from the Mississippi to New York involved the use of separate lines of railroad. each under a different management, with repeated change of cars and other similar inconveniences. That was the day of small things, when the Democratic Party was in power, and we had no giant corporations with continuous lines spanning the continent; but who would go back to that day and that condition?

It has been one of the marvels of this marvelous age how, by

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the consolidation of one line after another, great systems of railroads have been formed and put into successful operation, and at the same time the comforts of travel and facilities for freight transportation have been constantly and voluntarily increased, while the charges therefor have been as constantly diminished, until we have at the hands of these great corporations not that tyranny, oppression and deprivation of liberty, of which we hear so much, but, on the contrary, the best, the most accommodating and the cheapest service to be found anywhere in the civilized world.

This progress has not been without some hardships, and there have been some abuses, but it has not been the policy of the Republican Party to so legislate, on account of them, as to destroy these great properties and retard the development of our great country, but instead, it has been our policy to so legislate as to prevent and remedy these evils, and at the same time promote the general good.

As a result there are to-day more railroads in this country than ever before. More money is invested in them than ever before. They employ more men than ever before; they pay higher wages than ever before; and at the same time they charge less for the services they render to the public than ever before.

The net aggregate result has been one of great general benefit; and as it is and has been with the railroads so too it is, and will be, with these great industrial combinations.

They are born of our conditions. They have come to meet imperative requirements. They have been attended by many abuses. There will doubtless be many more; but time, experience, sound business judgment, and healthy public sentiment will correct most of them. There will be but little left for the law to do, and that little will not be difficult.

Their managers are not criminals, to be placed "behind the bars," as Mr. Bryan recently told us, but, with few exceptions, they are among the ablest, most enterprising, and most honorable of our business men. They could not reach and hold their

positions if they were not. They are the men who have taken the lead in the development of our resources. Without that which they have done we could not have been what we are. Probably more than any other class, they helped us to stem the tide of Populism, restore credit, start the mills, open the mines, and put employment within the reach of all.

And as it is with the managers so too is it with the stockholders. They are not criminals, to be sent to jail, nor are they confined to a few rich men, who constitute an exclusive and privileged class, but they are numbered by hundreds of thousands; they are scattered all over the country; they belong to all classes, the poor as well as the rich; the merchant, the farmer and the mechanic, as well as the capitalist. The stock is free to all, at the same price, and no one is so humble that he may not invest his savings in their shares and thus become a participator, in proportion to his means, and on terms of equality with the richest, in whatever of benefits there may be in their management. While therefore in dealing with them we must be alert to repress and correct whatever may be wrong, we must also be alert to deal fairly and do justice to all.

In the Kansas City platform the Democrats told us how they would deal with them. They mentioned two remedies and only two. One was publicity and the other was the free list for trust made articles. Mr. Bryan has since added the penitentiary. These are fair examples of Democratic statesmanship. There is publicity now, and was before the Kansas City platform, under the laws of almost every state in the Union, as to organization, as to stockholders, as to capital subscribed, and capital paid, as to corporate purpose, as to corporate officers, and as to every other corporate fact that concerns the public, and a great many that do not.

To admit duty free all products and articles the like of which are manufactured or produced in this country by trusts, is only another name for free trade. It would probably stop the trusts, but only because it would at the same time stop everything else. It would not only be free trade, but it would be free trade in a most aggravated form. Who would determine, and how, which companies were trusts and which were not? "Confusion worse confounded" would reign. For illustration, the United States Steel Corporation, the largest of all the great combinations, would doubtless be held to be a trust within the meaning of such a law, but that company does not do one-half the business of this country of its kind. The remainder is done by numerous smaller concerns, many of which would not be held to be trusts under such a law. If all the products in which it deals should be admitted duty free, what would be the result? All alike, great and small, would be placed at the mercy of European trusts. Under such competiton all would suffer and most of them fail, but the weakest institutions, and, therefore, the most innocent, would be the first to fall. If any survived it would be the strongest and the guiltiest. Disaster, wrack and ruin would result. You have only to look at the Democratic Campaign Text Book to see that according to Democratic opinion practically every manufactured article of commerce is produced by a trust. To put all the articles they claim are manufactured by a trust on the free list would not only ruin business but it would bankrupt the Government. Nothing could more surely or more quickly carry us back to the panic, poverty and distress of the last Cleveland Administration. Instead of putting the so-called trust magnates in the penitentiary, the man ought to be favored with some kind of a lockup who is capable of giving such advice.

This does not mean that we are opposed to any kind of change at any time in tariff schedules and rates. On the contrary, we believe in

# TARIFF REVISION.

from time to time, as occasion may require, but it must always be on protection lines.

At the very foundation of the protective policy has always

been the idea and claim that it would multiply industries, improve facilities, develop competition, and ultimately reduce the cost of manufactures below their cost abroad.

It has always been a part of this policy to reduce high rates of duty deemed necessary to secure the establishment of an industry as rapidly as its development and the cheapening of its product might allow.

Repeatedly since we inaugurated this policy we have revised the schedules; in many cases reducing rates; in some increasing them; in others abolishing them entirely.

Rates that are necessary to-day may be higher than will be needed for either revenue or protection ten years from now. That depends on what may happen in the meanwhile.

The duties fixed by the Morrill Tariff Act of 1861 would not at all fit the situation to-day; not because the principle of protection is different now from what it was then, but because the conditions to be dealt with are different.

The revision of 1883 had reference to the requirements of that day.

The McKinley Tariff Act was drawn in 1890, and if the Democrats had not come into power and repealed it we would doubtless by this time have made some changes in it,—not to corect errors, but to meet new conditions.

In 1897 we enacted the Dingley Tariff. The rates then adopted had reference to the conditions then existing. The proseprity that ensued and which has continued until now without interruption vindicates the wisdom of that statute, and the rates of duty it provided; but as time has passed the conditions in view of which we then legislated have greatly changed. The rates then deemed necessary may not in all cases be necessary now. It would be strange if they were. It may be that some should be reduced, some made higher, others altogether abolished.

The Republican Party will not for light reasons disturb a law that has brought us such prosperity, but it will not hesitate, when there is just occasion for doing so, to make such amendments as changed conditions may demand.

In the same spirit we shall make whatever

### RECIPROCITY.

arrangements may be entered into. If existing rates on certain articles are higher than necessary to meet the purpose of revenue and protection, and we can, by reducing them, secure compensating reductions for our goods going into foreign countries, there is no reason why we should not do so; but so long as the Republican Party controlls it may be accepted as settled that no reduction will be made on any account that will sacrifice any American industry, put in jeopardy the employment of American labor, affect prejudicially American wages or disparage the credit of our Government.

This is true as to

### CUBA

as well as to other countries. While that case is exceptional, vet no one has proposed a reduction of duty on imports from that island that would leave unprotected any industry of this country, and for the reductions we propose to make we are to receive an equivalent in the corresponding reductions that are to be made on our goods imported into Cuba. So that while we are proposing to give the Cubans a chance to get into our markets for the sale of their products, they are at the same time to give us a chance to enlarge our sales to them. It is a bargain, and a fair bargain. in which we are to get value received for all we are asked to give. But independently of that fact we should do, and I believe will do, for Cuba whatever may be necessary to give her prosperity. We are under a moral obligation to do so, and it will be a shameful disgrace to the American people if we do not. Cuba is our ward. She lies at our door. We will not allow her to have entangling relations with any other country. We have required her by the Platt Amendment to agree not to become so entangled. We have assumed a special responsibility for her. Her government has been established under our guidance and with our approval. We are responsible for it before the world. If she is successful what we have done will reflect upon us the highest honor. If she should fail it will be our failure as well as hers. No matter how good the form of government may be, nor how capable the people to be governed may be, there will be a failure unless the people themselves are satisfied, not simply with their political, but also with their material and industrial conditions. No people can be satisfied in these respects who are not prosperous, and no people can be prosperous, no matter how fertile their soil or how industrious and frugal they may be, unless they can find markets in which to sell what they produce. When Cuba was separated from Spain she lost all her Spanish markets. She could turn from them only to us but when she did so she found here such tariff rates of duty on her principal products of sugar and tobacco, as well as on other articles, as to make it impossible to pay them and sell in our country except at a loss. She has, therefore, been without markets. There is great loss and business depression in consequence. We cannot afford to allow such a condition to continue, and we will not. One of the first acts, in my opinion, at the next session of Congress will be to establish reciprocal arrangement between the United States and Cuba, either by the ratification of a commercial treaty or by the enactment of suitable legislation. But there is still another consideration. We now have the friendship of the Cubans. We should strive to keep it. It will be of special value. We have just determined to construct an

## ISTHMIAN CANAL.

In that great enterpirse we expect to invest something like \$200,000. The cost may be much greater than this amount before we are done with it. It is to be an American canal, constructed with American money, and under American control. It will be one of the charges of the nation to at all times not only

care for it, but protect it as against all the world. By the acquisition of Hawaii, we have already protected it on the Pacific side. With Porto Rico and the Danish Islands, which we are about to annex, under our flag, and with Cuba friendly, and with our military reservations and naval stations on that island, provided for by the Platt Amendment, we will fully control the Carribean Sea and thus protect all its approaches from the Atlantic side.

There is a great policy wrapped up in our extension and expansion in the Western Hemisphere, and it all has reference to the protection and advancement of American interests at home and abroad. It is characteristic of the Republican Party, the first business of which ever has been, and ever will be, to take care of the prosperity and the interests of the American people.

In this respect the Republican Party has shown itself preeminently capable. Past experience has demonstrated that our Democratic opponents are equally incapable.

Their notions about free trade, state's rights, and constitutional limitations make it impossible for them to have a just comprehension of our national power, opportunity and duty.

This has been evidenced not only by the manner in which they have dealt with our domestic concerns, but also, and more especially, by the course they have pursued with respect to the acquisition of territory and the questions growing out of the Spanish-American War.

For more than fifty years the annexation of

# HAWAII.

was advocated by our greatest statesmen.

It was finally about to be consummated by President Harrison. His work was all undone by President Cleveland.

President McKinley was more successful, and these islands are at last, in spite of Democratic opposition, a territory of the United States.

We did not want them for the sake of gain or territorial expansion, or because of any unworthy ambition, but because they

constitute a strategic outpost that gives us prestige in time of peace, protection in time of war, and security at all times for the Pacific approach of the Panama Canal. They belong naturally, as well as politically, to this Continent. They, as well as we, recognized that fact, and their acquisition was not in accordance with our desire alone, but also in accordance with their desire as well.

Almost the first declaration of the last Democratic national platform was a denunciation of the act that had been recently passed, providing revenues and a civil government for

## PORTO RICO.

Among other harsh things, they said, speaking of this legislation, that "it dishonored the American people and condemned Porto Ricans to poverty and distress." Only two years have passed, but this short period has been sufficient to demonstrate the injustice of this criticism and to fully vindicate that work. The fact is that the legislation they so vigorously condemned was the most magnanimous and generous of its kind that our government ever enacted. Nowhere within our jurisdiction are the burdens of taxation so light. Nowhere else under our flag can you find, compared with prior conditions, such prosperity or such happiness. Nowhere else is there more devoted lovalty to our sovereignty. Nowhere else is there a greater work being done for the elevation of humanity, and nowhere else is such work more appreciated. What we have been doing and are doing, and are proposing to do in Porto Rico comprehends not only good government, so far as its form and its burdens are concerned, but it comprehends also every kind of benevolence. Asylums, hospitals, and schools are but illustrations. To-day, as a result of the two short years of such labor. where there were practically none before, we now have more than 50,000 Porto Rican children in attendance upon the public schools, all studying with greatest eagerness our language and our institutions.

They are rapidly becoming qualified to take charge of their own government in all its departments, and the day is not far distant when we can have the great pleasure of entrusting it entirely to them. Nowhere in our history can you find an incident of this general nature that reffects on our country greater honor. Every American should be proud of it, and every Democrat should regret that he belongs to a party that has no part in it.

The course of the Democratic Party with respect to the

### PHILIPPINES

has been even worse. There was room for honest difference of opinion as to the wisdom of annexing them, but after annexation was an accomplished fact, and we had, in connection therewith as conditions of the treaty of peace with Spain, assumed obligations that compelled us to establish government and discharge other important duties that required us to remain there and enforce our authority, there was but one course to pursue, and that was to stay there and keep our promises.

It was a heavy task at best. Democrats have vastly increased its burden. Instead of treating it as a great American work in which were involved the honor of our Government and the good name of the American people, and standing loyally by the Administration, they made of it a political party question and discredited and sought to disgrace all our efforts and all our representatives and agencies both civil and military.

Their leaders did not hesitate to encourage our enemies by boldly declaring their sympathy with them, and openly assailing and traducing the army that was upholding our cause.

You will read their speeches in vain for one word of genuine praise for our soldiers.

The splendid victories won have brought no cheer to their hearts. Our final triumph has filled them with sullen gloom.

Practically the whole archipelago is now under civil government, and for the first time in four hundred years the Filipinos have a chance to participate in the administration of their public affairs. For the first time in all this long dismal period have they had a government under which their personal liberties and property

rights have been respected and protected. For the first time they have been given the benefits of public schools and an opportunity to enjoy any of the blessings of our free institutions.

Already a great change has been wrought. Distrust and hatred are yielding to confidence and loyalty. No conquering hero ever returned to his people in greater triumph than Judge Taft returned a few weeks ago to Manila. He was overwhelmed with the greetings of welcome that were showered upon him by the natives of that city. They have learned that we are there not as oppressors but as liberators; not to deny liberty but to extend it; not to enslave but to emancipate. As time passes they will learn our purposes better and appreciate them more.

What we are to do with them ultimately is a question that need not now be answered. Nobody can answer it now. Only time can tell what is to occur in that respect, but I predict that the time is not far distant when there will be in the Philippines the same love for our flag and the same loyalty to our authority that are found to-day in Hawaii and Porto Rico, and that the practically unanimous sentiment of that people will favor continuing under the American flag where the fortunes of war have placed them.

In the prosecution of the great work we have done there no doubt some mistakes have been made and some wrongs have been committed; such experiences are inseparable from all wars and all great human enterprises. But taken as a whole the Philippine chapter is one of the brightest in American annals. President McKinley commenced it and President Roosevelt has continued it. Their names alone are a sufficient answer to all calumnies. No eulogy can add to the fame of McKinley. One short year has demonstrated that his unfinished task has fallen into strong and capable hands.

# THEODORE ROOSEVELT

is not only the political head of the nation, but he is everywhere recognized as the highest type of American statesmanship and American citizenship. He came to his office under the most em-

barrassing circumstances, but he has shown the qualities of a great leader and a great executive. He has won the confidence and the affectionate regard of his countrymen. He is President now and in all probability will be President again. So far as his part is concerned the expectations of the American people will be met. but he cannot successfully execute the great policies he is pursuing unless he is supported by appropriate legislation. The Senate is safely Republican, and will continue so through the remainder of this and the next term, but it depends upon the American people to say whether or not he shall be upheld by the next House of Representatives. That is the question we are to answer at our approaching election. It is the duty of the Republicans of the United States to choose a Republican House. It is the duty of the Republicans of Ohio to see to it that there is no Democratic gain in this state. It is the duty of the Republicans of this Congressional District to re-elect General Dick. He is one of our foremost Representatives. He has been able, efficient and indefatigable in the discharge of his duties. He well merits the honor of a triumphant re-election by an increased majority.





# STATEHOOD BILL.

# SPEECH

OF

# HON. JOSEPH B. FORAKER,

IN THE

# SENATE OF THE UNITED STATES,

Thursday and Monday, January 15 and 19, 1903.

WASHINGTON.

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## SPEECH

(1)

# HON. JOSEPH B. FORAKER.

Thursday, January 15.

The Senate having under consideration the bill (II. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States—

Mr. FORAKER said:

Mr. Presideet: This bill as it has come to us from the House provides for the admission to statehood of the Territories of Oklahoma, New Mexico, and Arizona. That part of the bill which admits Oklahoma to statehood contains this provision:

Provided, That the constitutional convention provided for herein shall, by ordinance irrevocable, express the consent of the State of Oklahoma that Congress may at any time, or from time to time, attach all or any part of the Indian Territory to the State of Oklahoma after the title to said lands in said Indian Territory is extinguished in the tribes now claiming the same, and the same assigned in severalty and subject to taxation.

A majority of the Senate Committee on Territories have reported adversely upon this bill, and they have recommended in their report that we adopt a substitute which they at one time introduced and subsequently withdrew. I do not know whether it has been again introduced or not.

Mr. BEVERIDGE. No; we withdrew it with notice that we

would reintroduce it.

Mr. FORAKER. I understand it has not yet been reintroduced, but that notice has been given that it will be reintroduced at some time in the future. So we may consider it as really before us. They have recommended, I say, that we adopt a substitute, which they have thus brought before us for consideration, consolidating the Indian Territory with the Territory of Oklahoma and providing for the admission of the two Territories as one State, to be known as the State of Oklahoma.

Now, inasmuch as I propose to say very little about Oklahoma, I shall speak of that first. Standing alone, considered on its merits, without regard to the other Territories mentioned, I think all will concede that Oklahoma is entitled to statehood. She has a sufficient area: she has sufficient property to enable her, without burdensome taxation, to support a State government, and she has a sufficient population, both in numbers and intelligence and with respect to every other quality that should be considered in this connection.

There are those, however, who are opposed to the admission of Oklahoma, notwithstanding she possesses these qualities, if, to admit her, they must, at the same time—as passing the House bill would do—admit the other Territories of New Mexico and Arizona, to the admission of which they are opposed for reasons that I shall consider presently.

There are others, and I am one of them, opposed to the admission of the Territory of Oklahoma to statehood if it must be now

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consolidated with the Indian Territory, as proposed by this substitute measure. I do not object to its ultimate consolidation, as the bill which has come to us from the House proposes and provides. I think it is manifest to all that they are so situated, being contiguous to each other, and one being so much the complement of the other, that they ought to be united. It would not make a State of too great area, and of course it would not make a State of too much wealth or too much population or too much intelligence.

But, Mr. President, the difficulty about consolidating these Territories at this time, as proposed by the substitute measure, is that it is impracticable to do it, as I understand the facts, with-

out doing injustice to the people of Oklahoma Territory.

In order that I may present what is in my mind, in that connection I call attention to the fact, which has already been commented upon by those who have addressed the Senate upon this bill, that all the lands in the Indian Territory originally belonged to the Indian tribes; that they have had no Territorial government in the Indian Territory such as the other Territories have had; that they have had, so far, no school system established. I believe the Senator from Minnesota [Mr. Nelson] told us yesterday that there are but sixteen schools in the Indian Territory, and they are private schools, as contradistinguished from public schools. He told us in that same connection that in consequence of this condition there is great illiteracy in the Indian Territory. and he appealed to us in the closing sentences of his speech to admit the Indian Territory to statehood because there was that illiteracy, and because they had up to this time no government whatever except only that provided by the Indian tribes, forgetting, apparently, that in the opening sentences of his speech he had appealed to us to reject the petition of Arizona for statehood on the ground of illiteracy and similar unsatisfactory conditions.

Attention should be called also to the absence of other conditions. They have, as I am told, no roads whatever, at least none worthy of serious mention, in the Indian Territory, not even the most common, ordinary highways. If you want to go about through the Territory, you must follow Indian trails or bridle paths, and there are no bridges over the rivers or streams. That is what I am told. The Senator from Wisconsin [Mr. QUARLES] smiles incredulously. If I am in error, I will be obliged if he will

correct me.

Mr. QUARLES. Mr. President, inasmuch as the Senator has appealed to me and inasmuch as I have some personal knowledge of the situation there, and I know the Senator wishes to keep exactly within the line of fact, I will state the fact is that they have many good highways, but they have absolutely no system. They have no legal method of acquiring any new highways. They have good highways and good bridges, and the character of the Territory is such that roads are very easily made and require very little expense in making them.

Mr. FORAKER. Mr. President, I am very much obliged to the Senator from Wisconsin for imparting that information. Perhaps I should have made the statement that there was no sys-

tem of highways.

Mr. QUARLES. That is quite right.

Mr. FORAKER. Where four or five hundred thousand people are living there is no doubt some way to get from one settlement to another, or of getting about over the country, but I have been

told by people who live there and people who have a right to speak from knowledge of the conditions there—I have been told this within the last twenty-four hours—that they have no road system whatever, and if you go about over the Territory you go in some such way as I have indicated.

Mr. BEVERIDGE. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio vield to the Senator from Indiana?

Mr. FORAKER. Certainly.
Mr. BEVERIDGE. One circumstance alone, I will say to the Senator, will show the inaccuracy of the statement that there are no roads, although of course there is no system of roads.

Mr. FORAKER. I said there was no system of roads.

Mr. BEVERIDGE. I know. I refer to the very large volume of domestic commerce which exists there. It is very large; in-

deed, as large as that of Oklahoma.

Mr. FORAKER. Mr. President, while the statement as I originally made it was strictly in accord with the information which had been given me, yet the modification which the information now imparted requires does not change the purpose I had in view

in referring to it.

What I wanted to call the attention of the Senate to is that if the Indian Territory be now admitted to statehood, it will be necessary for the State government to provide funds for the construction of highways, if not to the full extent I indicated, yet to a very considerable and a very expensive extent. My informant told me it would cost more than \$16,000,000, as had been estimated, to make the necessary highways the Territory ought to have to enable it to be anything like equal in that respect to Oklahoma as it is now. In addition to that, Mr. President, it will be necessary to establish a school system and provide support for it. Now, where is the support for the school system, and where is the maney for the construction of the highways to come from? In ad tition to that, it will be necessary to establish all kinds of ordinary public institutions, behave lent institutions, penal institutions, and asylums. Where will the money come from?

Every Senator here knows, or should know, that the lands of the Indian Territory are not taxable except in a very small part. Originally they all belonged to the Indian tribes and were non-taxable. Under the legislation of recent years there has been an attempt to dissolve the tribal relations and get rid of the tribal In that behalf we have provided for allotments in severalty to the members of the various Indian tribes, but the statutes providing for the allotment of these lands provide that they shall not be taxable after an allotment in the hands of the allottees for a period of twenty-one years, in at least most cases, and that if the allottee see fit to sell, having first the approval of the Secretary of the Interior, he may do so after five years, and his lands so sold shall be taxable only in the hands of the allottee.

Now, in addition to that, town sites are taxable, but the town sites that are taxable and the lands that have passed into hands, as I have indicated, where they are taxable are comparatively but a very insignificant portion of the territory embraced within the boundaries of the Indian Territory; that is to say, only an inconsiderable portion of these lands are taxable. Personal property there is taxable, I suppose, but practically the lands are not

In other words, then, there is no public domain whatever in the

Indian Territory. There never has been. There are no lands there that can be thrown open to preemption by homestead settlement. There are no lands there that can be set apart for the endowment of a school system, as in other Territories has been done. There are no lands there that can be set apart for the endowment of penal and benevolent institutions, as was done in the Territory of Oklahoma and other Territories, and there are no lands there that can be set apart for the endowment and maintenance of institutions of higher education, such as State universities, as was done in the case of Oklahoma, and as has been done in other cases.

I call attention to that particularly because the Senator from Minnesota, in his closing sentences on yesterday, told us it would be no hardship upon the people of Oklahoma to unite the Indian Territory with Oklahoma at this time because, in the first place, the bill made provision for the endowment of the common school system in the Indian Territory, just as has heretofore been done

in Oklahoma and in other Territories.

I call the attention of the Senate to what the provision is that is thus referred to. I find it at section 7 of the substitute, page 53 of the print, which I have before me. It reads as follows:

SEC. 7. That upon the admission of the State into the Union sections numbered 16 and 36 in every township in Oklahoma Territory, and other lands, equivalent to sections 16 and 36, in every township in Indian Territory, shall be granted from the public domain in Oklahoma Territory, in lieu of sections 16 and 36 in every township of Indian Territory, except sections 16 and 36 in either Territory, or parts thereof, that have been reserved, sold, or otherwise disposed of by or under the authority of any act of Congress: Provided, That said indemnity lands, in lieu of sections 16 and 36 of the townships in the Indian Territory, shall be selected in such manner as the legislature may provide, with the approval of the Secretary of the Interior, and shall be granted for the support of the common schools of said proposed State of Oklahoma; etc.

In other words, Mr. President, the provision which has been brought before the Senate in this substitute, and which was commented upon by those who have spoken in support of the substitute, is one that, as I have said, is absolutely impracticable. It is a provision that means, if it means anything, that inasmuch as there is no public domain in the Indian Territory out of which land can be set aside for the purposes of education, we shall set aside, out of the public domain in Oklahoma Territory, an equiva-lent to two sections for every township in the Indian Territory. How many acres would that require? That would be 1.280 acres for every section, or every square mile, in the Indian Territory, There would have to be that much set aside to put the Indian Territory on an equality with the Territory of Oklahoma. That is what the substitute bill proposes to do. But, inasmuch as the Indian Territory has no public domain, it is proposed to go to the public domain of Oklahoma to get it: and we are asked to accept that kind of a proposition as doing justice as between the Indian Territory and Oklahoma Territory in the matter of endowing a common school system.

The area of the Indian Territory is about 31,000 square miles, I believe. So there would have to be something more than 3,000,000 acres set aside under that provision out of the public domain of Oklahoma. But that is not to be set aside out of the public domain of Oklahoma, according to the provisions of this bill, until there shall have been first set aside out of that same public domain 1,450,000 acres specifically provided for, and provided for not only

in the bill which came to us from the House of Representatives, but provided for also in the substitute reported by the majority of the committee. These 1,450,000 acres are to be set aside for the following purposes:

For the benefit of the Oklahoma University, 200,000 acres; for the benefit of the Agricultura land Mechanical College, 250,000 acres; for the benefit of the Colored Agricultural and Normal University, 100,000 acres; for the benefit of normal schools, 250,000 acres, and 650,000 acres to be disposed of as the legislature may provide, said lands to be selected in such manner as the legislature may provide, with the approval of the Secretary of the Interior.

Mr. President, recognizing that to set aside such large bodies of land-1,450,000 acres-to meet these specific purposes, and something more than 3,000,000 acres to meet the general purposes I have spoken of, and not to allow them to be entered upon by settlers or taken possession of or developed—recognizing that that would be a serious drawback in the development of that Territory, the committee have provided in their substitute that all these lands shall be offered for sale to the highest bidder at not less than \$10 an acre. In that way they propose creating a fund out of which to provide education for those poor people of the Indian Territory, of whom we heard so much spoken yesterday in commiseration, and to provide for these institutions of higher learning and for the penal institutions and the benevolent institutions necessary to statehood. Naturally, one would be rather pleased with the fairness of that proposition as it reads on its face; and I thought, inasmuch as the Indian Territory had no public domain, it was a right and proper thing for the United States Government to take all these lands from its domain elsewhere, and from nowhere else so appropriately as from Oklahoma, and thus make good the deficiency that existed. But I wanted to see how it would work out, and therefore I went to the office of the Commissioner of Public Lands and got his last official report-that made last year. I wanted to see how much of the public domain the United States Government yet has in the Territory of Oklahoma. At page 198 of this report I find a table, the title of which is as follows:

Statement, by States, Territories, and land districts, and also counties where practicable, showing the area of land unappropriated, etc.

I look at the table there found as to Oklahoma, and I find that there are yet, or were last June, when this report was made—it does not show anything later than that—there were then yet in Oklahoma of unappropriated lands only 3,789,976 acres. It is therefore out of that 3,789,976 acres that all this appropriation must come, and all the lands so set aside are to be sold at \$10 an acre. I thought that that was a pretty good price for wild land, and I thought I would like to know what kind of land it was, and so I made inquiry as to that. I have not had an opportunity to get any official report upon it, but I learn from the report of the Commissioner of Public Lands that 3,000,000 acres of this land is in Beaver County.

I looked on the map and I found that Beaver County was what was known a few years ago as "No Man's Land." It runs across the upper end of Texas, intervening between Texas and Kansas and Colorado; the Cherokee Strip, I believe it was originally called. That is Beaver County. Three million acres of that remnant of the public domain of Oklahoma are in Beaver County. Then I pursued the inquiry so as to learn what kind of land it is which is to sell at \$10 an acre to the highest bidder, with which

to endow a common school system, and I learned that there was not an acre there, in all probability, that would bring as much as \$1, and a great deal of it would not bring anything. A great many homesteaders at first went in and made homestead entries there, but they have practically all been abandoned because it is a dry, arid, rocky, and objectionable kind of soil. It is also topographically objectionable, and the soil is filled with gypsum and other ingredients that make the water so objectionable that the land is not suitable for either men or beasts, and it has been practically abandoned.

Well, that narrows the thing down a good deal. There is not an acre in Beaver County of the whole 3,000,000, more or less, that could be sold, according to the information I have, for one dollar-not one-and there are vast areas of it that could not be

sold for anything.

That is the kind of a bill, Mr. President, the majority of this committee have brought here and have asked the Senate of the United States to accept, upon their recommendation, as a provision for the endowment of a common-school system, needed more there, according to the representation of the Senator from Minnesota [Mr. Nelson], made in this Chamber yesterday, than in any other place in the United States—a mere barren provision that will bring nothing.

Now, look a little further. Deducting that 3,000,000 acres, we have 789.976 acres left, or less than enough to make the specific appropriation provided for the State university, for the benevolent and penal institutions, and for other specified purposes. So there would not be one acre left for a school system for the Indian Territory of that which is even passably good land; but there is a great deal of the remaining 789,976 acres that is not good.

In Woodward County, which lies next to Texas and immediately south of the Cherokee Strip, they have practically the same kind of soil, and if you will look at the reports on file you will see there are no settlers there. The Government has had even to

withdraw the land office from Beaver County.

Three hundred and forty-nine thousand acres of this residue are situate in Woodward County, which were to be devoted to school purposes in the Indian Territory, to be put up and sold at auction, according to the Senator who addressed us yesterday, at \$10 an acre, to create a fund for the support of the common-school

system, and all of the same general quality.

I might run through this table and point out other lands of the same nature belonging to this residue, but if you will go south on the map you will see that the county next below Woodward is Roger Mills County, and the one next below is Greer County. and nearly all this remnant of land is in the counties of Greer. Roger Mills, Woodward, and Beaver, and all of that land that remains unappropriated is comparatively valueless land. I doubt if you can find an acre in the whole of it that is worth \$10; very little that has any present value whatever.

Mr. BEVERIDGE. Are those western counties?

Mr. FORAKER. They are western counties, running down

the line.

Mr. BEVERIDGE. And the land gets progressively bad as

you move west?

Mr. FORAKER. Yes, until you come to New Mexico. [Laughter.] I shall speak of that presently.

I am talking now, Mr. President, about the substitute bill which the majority of the committee have brought in here as a result of their visit to these Territories and of an "investigation on the ground." They recognize—and the Senator from Minnesota dwelt upon it yesterday at great length—that in the Indian Territory there is an abnormal degree of illiteracy, and that there is an unusual necessity for statehood, in order that a common school system may be established, and that those people may be prepared for citizenship in the United States; and this is the way

that it is proposed to do it.

Mr. President, I commenced by saying that I would not say much about Oklahoma, and I will not. I have said all this to support the statement I made, namely, that it is impracticable at this time to consolidate the Indian Territory with Oklahoma and admit the two as one State without doing a violent injustice to the people of Oklahoma. No man will question but that in the Indian Territory there must be highways, and persons have suggested, in giving me information, that that will be a very burdensome expense to the State government. We all agree that there must be a system of education of some kind established; and no system is as good as the common school system, and that, we know, will be burdensome.

If you unite the Indian Territory with Oklahoma Territory at this time, you do it when, practically, there are no lands subject to taxation in the Indian Territory; you do it when unusual burdens must be borne by somebody; and if these unusual burdens are to be borne, by whom can they be borne except only by the

people of the Territory of Oklahoma?

Yesterday the Senator from Minnesota, in closing, said alsoand seemed rather to congratulate himself on that fact—that, although he had spoken many days in addressing the Senate, and had gone at great length and with great elaboration into this whole subject, he had not found it necessary to speak one harsh or unkind word of anybody. That was his parting consolatory remark

Mr. President, I have some hesitation about saying what I had in my mind to say in answer to that suggestion by the Senator. I will not say what I had it in mind to say, but I will say that the Senator in making that remark was not justified by the record

which he himself had made.

Now, I shall pass that with this simple remark and come to what I want more particularly to say, that in this bill providing for the admission of Oklahoma to statehood is found a provision that I read in my opening sentences, a provision that is fashioned after the provision that was embodied in the law making Oklahoma a Territory. Oklahoma and the Indian Territory were at one time one Territory, and Oklahoma was carved out of the Indian Territory. The provision of that law was that Oklahoma should be added to from the Indian Territory as from time to time the Congress of the United States might see fit to add. The provision in this House bill is that Oklahoma shall now irrevocably give her consent that she may be added to from time to time from the Indian Territory as her lands are freed from present conditions and are made taxable. We have full power as to the Territory, and the purpose of that provision is that we may avoid the necessity of tying on to Oklahoma a Territory for which Oklahoma will have to bear the burden of government without having any help, practically and comparatively speaking, from

the Indian Territory.

If we admit the Territory of Oklahoma with the obligation on the part of Oklahoma to put into her constitution such a provision, irrevocable in its character, we can, as these lands are alloted and as they are aliened and come into the hands of people who will have to pay taxes on them, from time to time add from the territory of the Indian Territory, and ultimately the entire Indian Territory can be combined with Oklahoma Territory, and we will have one State of the two Territories, as it seems to me manifestly we should have, and only one; but it would be an injustice to do it now.

Now, Mr. President, I want to pass from Oklahoma. I want to speak about New Mexico and Arizona, but before I speak as to the merits of these two Territories I want to speak a word or

two as to the political aspects of this question.

### PLATFORM DECLARATIONS.

The Senator from Minnesota opened his speech with a reference to our Republican national platform declarations concerning the admission of these Territories, and in that connection announced that he did not feel bound by them and called the attention of Senators to the fact that they were not made under oath. [Laughter.] They were not made under oath, although I heard a good deal of swearing at Philadelphia; not, however, at the platform. But I appreciate what the Senator said; no, I do not

appreciate it either, but I note what he said.

Mr. President, it is not necessary, I trust, that a platform declaration should be sworn to in order to command credibility. I can understand, however, how it is that a Senator who simply sat in the convention at Philadelphia, thinking about who should be nominated for the Presidency or the Vice-Presidency, or what the declaration of the platform should be in regard to the tariff or the money question, might pay but little attention to what would be said about the admission of Territories to statehood. I can understand how he might regard that as not a vital matter. and how he might not pay any attention to it at all, not knowing even what declaration was made at the time he voted for the adoption of the platform. I can understand how a man might even belong to the general committee on resolutions and not have accurate knowlege, or feel bound by a declaration of that kind in the sense in which he would feel bound by a declaration in regard to some matter that was directly in issue before the people; but that is not the case with a man who helped draft it.

It was my fortune to be not only a member of the committee on resolutions in the National Republican Convention of 1896, but I was also chairman of that committee, and I was a member of the subcommittee and chairman of the subcommittee that draft d that platform. I knew then exactly what we were putting in that platform. We put it in after giving a hearing to everybody who wanted to be heard; we put it in there, thinking it would strengthen the cause of Republicanism throughout the West. It was not an idle thing; it was not an ill-considered thing on the part of those who did it: it was carefully considered, and it was

done after it had been thoroughly discussed.

When we came to Philadelphia in 1900 I was not chairman of the committee, nor the chairman of the subcommittee, but I was a member of the committee and a member of the subcommittee that drafted that platform. In 1896 we put in a qualified declara-

Let me read it:

We favor the admission of the remaining Territories at the earliest practi-We rayor the admission of the remaining Ferritories at the earliest practicable date, having due regard to the interests of the people of the Ferritories and of the United States. All the Federal officers appointed for the Territories should be selected from bona fide residents thereof, and the right of self-government should be accorded as far as practicable.

In 1900 we dispensed with all qualifications and boldly and un-

qualifiedly declared as follows:

We favor home rule for, and the early admission to statehood of, the Territories of New Mexico, Arizona, and Oklahoma.

Now, Mr. President, if we are to be told that is not binding because it was not under oath, or if we are to be told that for any reason whatever we are now to disregard it; if, in other words, insincerity is to be written across that declaration of the Republican national platform, it shall not be written by my hand.

I can understand how a man might think even in 1896 or in 1900 that these Territories ought to be admitted to statehood and might now think differently, but before any man has a right to change his mind he must profess to have new light of some kind or other. I have no new light. I was in earnest then. I knew what I was doing, and every other member of that committee knew what he was doing. There was a careful hearing. That declaration was not put in there to help the opposition. It was put in there to help the Republican party: and we put it there because we thought it was right. I feel to-day just as I did then, and I intend to vote now when it is not a mere platform proposition as I voted then, because I am in earnest now as I was then.

Having said that much, I want now to speak particularly about

the Territories of

NEW MEXICO AND ARIZONA.

When you come to consider the question whether or not any particular Territory is entitled to statehood, there are three general propositions to be considered. One is area. Is the Territory sufficiently large, or is it too large? Nobody objects to area in this case. The area of New Mexico and the area of Arizona are large; but nobody claims that the area of either Territory is too large, and certainly nobody has claimed that it is not large enough. So I pass area by. So far as mere acreage is concerned, mere extent of territory, these Territories are quite acceptable according to every precedent that we have established.

There are only two other general questions remaining. One is, have the people wealth enough within that Territory, sufficient property, to support statehood without unduly burdening themselves by taxation in order to raise revenue. If they have, then the remaining question, and the only question remaining, is one of population. Is that sufficient, and is it of proper quality?

In the report made by the majority of the committee, presented to the Senate by the Senator from Indiana, a great deal is said, to which I shall make response presently, about the rule established by the ordinance of 1787. He speaks in that connection of the rule established as to population, and he seems to argue and contend that we ought to be governed by whatever our fathers, wisely considering the question, saw fit to establish as a rule at that time. I call his attention, and I call the attention of the Senate, to the fact that in the ordinance of 1787, to which he has thus appealed, there is not one word as to how much property a Territory shall have. Except Vermont, Maine, and Texas, all the

Territories that we have created into States have come into the Union after having had the ordinance of 1787 applied in their government, or under our treaties with France, Spain, or Mexico.

Mr. CLAY. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio vield to the Senator from Georgia?

Mr. FORAKER. Certainly.

Mr. CLAY. I desire to ask the Senator from Ohio if it is not true that we have admitted heretofore 13 States with less taxable wealth than either Arizona or Mexico now possesses?

Mr. FORAKER. Yes, I believe so.

Mr. CLAY. And is it not true that Indiana at the time she came into the Union had less taxable wealth than either of these

Territories and that Minnesota had less taxable wealth?

Mr. FORAKER. Mr. President, the railroads alone in the Territory of New Mexico are worth more than twice all of the taxable property of both Indiana and Ohio at the time those two States were admitted.

#### PROPERTY QUALIFICATION.

What I was going to call attention to however, is that this ordinance of 1787 does not say anything about property; what it speaks about is "free inhabitants." Whenever there are a certain number of free inhabitants, certain rights shall follow; not when there are so many millions of property.

When you come to the treaties with France, Spain, and Mexico, under which we have admitted all the remaining Territories into the Union of States, there is talk about the inhabitants, but there is no talk about wealth or the property that would be sub-

ject to taxation.

The theory under which the framers of the ordinance of 1787 proceeded, doubtless, was that whenever there was a requisite number of free inhabitants, citizens of the United States, in a given Territory, they would have all the other things necessary; and it was not necessary for them to be enumerated to enable them to maintain statehood.

But, passing that, and speaking of it as though it is something that we are compelled by precedent to consider, what is the fact as to property in New Mexico and Arizona? I do not want to be too tedious about this, but, as I said awhile ago, if we look no further than the railroads, they have got more property than

many of our Territories had when they were admitted.

On page 13 of Senate Document 2206, part 2, entitled "Views of Mr. Quay," appears a statement as to the property in New Mexico that would be subject to taxation. I do not want to read it, but I will ask to have it inserted in the Record just as it appears here. If there is no objection, I will ask that it be put into my speech at this place. I call attention to the fact, however, that it is an itemized statement showing the railroads, showing the acreage fit for agriculture, showing the mines, showing the stock, showing the general products, and showing all the other kinds and classes of property to be found in the Territory, and that the aggregate, according to this statement, is \$283,000,000.

The evidence presented before this committee, roughly tabulated, shows the present property of the Territory that will be subjected to taxation when it is admitted as a State as follows:

7,000,000 acres of railroad land, with its coal, iron, and timber, at

| 2,000,000 acres of agricultural land, at \$10                     | 20,000,000                   |
|---|------------------------------|
| shops, etc., at \$20,000  | 60,000,000                   |
| Patented mines and plants. 7,000,000 sheep and goats, at \$2      | 25, 000, 000<br>14, 000, 000 |
| 21,000,000 pounds of wool, at 8 cents                             | 1,680,000                    |
| 1,700,000 head of cattle, at \$20                                 | 34,000,000<br>500,000        |
| 50,000 head of horses, at \$10.<br>100,000 head of burros, at \$2 | 200,000                      |
| City lots and buildings   | 25,000,000<br>12,500,000     |
| Stocks of goods.  Household furniture of all kinds                | 4, 120, 000                  |
| Jewelry   | 2,000,000                    |
| , Cash, bonds, stocks, mortgages, etc                             | 5,500,000<br>5,000,000       |
| Produce of farms—alfalfa, wheat, and other crops                  | 2,500,000                    |
| All other kinds of property                                       | 1,000,000                    |

Mr. President, how far are we to go in this matter? We sat here and listened hour after hour to a very interesting and very able narration of facts and data compiled by Senators who have addressed us to show of what the property in those Territories consisted: to show that there was only a certain percentage of lands suitable for agriculture without irrigation, and only a certain percentage that could be irrigated, and that the products of the mines were only of such and such value, and other data like that. All that is not any concern of ours. All we are concerned about is whether or not there is enough property there in the aggregate subject to taxation to support statehood without any unreasonable burden. It does not make any difference whether it consists of agricultural land, of mineral products, of manufactures, of banking capital, or what not. The accidental remark, "banking capital," recalls to my attention something that is not included in this report, I believe; something, however, I saw in the governor's report, that in the Territory of New Mexico they have 14 national banks—I believe that is the number—and 12 Territorial banks or private banks, with an aggregate resource for the whole number of banks of about \$10,000,000 and with a surplus of seven and a half millions. And yet Senators talk about a community which has banking establishments of that character and such industries as that represents not being entitled to statehood!

Consider, now, the railroads. According to the governor's report, made early in the year, they had over 2,000 miles of railroad I do not recall the exact figures. If anyone is curious to know the exact figures by reference to his report he can get them. I saw the statement only a day or two ago that during the present year they have added to it until now they have about 2,600 miles

I do not take time to consult figures and give them accurately, because it does not matter what the exact figures would show, whether a few miles more or less. All we need to know is what are the aggregates. Details may be interesting, but they are not

essential.

What, now, is the value of the railroads constructed and put into operation in the Territory of New Mexico? I saw a statement somewhere, made, I think, by the Senator from Minnesota, that he estimated the railroads as of the value of \$7,500 per mile. I made inquiry of the railroad commissioner to know what was the probable average cost of railroads in New Mexico and in that Western country, and his answer was that the railroads in New Mexico and that Western country cost on the average, according to the statistics they had, about \$81,000 a mile. That is the response of the commissioner of railroads. That seemed to me very high. But, with the limited knowledge I have about the cost of railroad construction and the value of railroad property after it has been constructed and put into operation, I suppose it would be a conservative estimate to say that these railroads are worth \$30,000 a mile. I do not believe they could be constructed and equipped, as all these are, and put into operation for any such sum of Mr. President, I know enough about it to know that they could not be. Every Senator here who has made any observation at all must know that fact. If they have 2,600 miles of railroad worth \$30,000 a mile in New Mexico, you see at once what a great aggregate of value it makes.

Now, turn to the speech made by the Senator from Vermont, who is opposed to the admission of New Mexico, and who was arguing to show that New Mexico did not have sufficient industrial development to entitle her to admission, and you will find that he says that the annual product of Arizona—it is not the taxable property in Arizona, but the annual product—consisting of copper and silver and gold and other minerals, and agricultural products, is \$33,567,537, or twice as much, in all probability. as all the property in Indiana subject to taxation was worth when it was admitted into the Union in 1810, far more than all the property in Ohio was worth when it was admitted, and a great deal more than all the property in Tennessee was worth when it was admitted. That is not the aggregate value; it is the annual product in dollars and cents, and it is not the annual product as I give it, but the annual product as given by an opponent of this measure, the distinguished Senator from Vermont, who made a most able and interesting speech on this subject, so far as the facts are concerned. And this was his statement as to Arizona, the smallest in population of these three

Territories.

Now, Mr. President, admitting, however, as the Senator from Vermont did and the Senator from Minnesota did, that New Mexico and Arizona have the property values of which I speak, they say, to use the language employed by the Senator from Minnesota yesterday, that they are now in a stagnant condition; there is no development; there is no going ahead; and there is no prospect as there was a prospect for Indiana and Ohio and Illinois and the other Territories when they were admitted into the Union.

Mr. President, a grosser injustice could not be done to that people. Let us see if they are not going ahead. I have here a statement which shows that during the past twelve months, end-

ing on the 31st day of last December, there were constructed and put into operation within the Territory of New Mexico 358 miles of railroad. Does that look like stagnation? I do not know how many miles were built in Indiana, but I doubt if so many were built there. There may have been. We will all hope so. But it is a pretty lively community in which there is that amount of

railroad building going on.

Now, let me call attention to something else. Here are the internal-revenue receipts collected from New Mexico. In 1890 she paid \$37,671.19 internal-revenue taxes into the Treasury of the United States. Of course since then the war taxes have come, but they do not account for all the growth. In 1901, the latest year for which I have the statistics, she paid \$58,609,31. Here are her post-office receipts. Now, please note what has been done in this stagnant community. In 1890 her total post-office receipts amounted to \$45,639,62. In 1902 they amounted to \$93,684.17. Since June 30, 1900, when the census was taken, they have established in New Mexice 76 new post-offices, as the post-office author-

ities have certified. I have their letter to that effect.

It is very difficult for me to keep Arizona and New Mexico apart, and it just occurs to my mind that it is not necessary I should do so. They run naturally together. I think I am safe in saving that if I give the data as to New Mexico, you can assume that everything which has occurred there has occurred also in Arizona in the same proportion that the population of the one Territory bears to the population of the other-practically the same. That will save me the trouble of going into all this in detail as to both. But inasmuch as I have it before me, let me show you what great growth there has been in Arizona in the matter of post-office receipts. This table, sent me by the Third Assistant Postmaster-General, shows that for the year ending June 30, 1890. the post-office receipts in Arizona amounted to \$28,416.06 and for the year ending June 30, 1902, to \$129,267.95. The internal-revenue receipts from Arizona in 1892 were \$17,965.90, and in 1901 they were \$61,698.96.

Mr. President, does that look like a stagnant community? But that is not all. We have heard a great deal about the undesirability of the agricultural lands in New Mexico. I have some figures here which will show that they are at least sought after by people who are hunting for homes in that far distant frontier country. From June 30, 1900, when the last census was taken, down to the 20th day of December, 1902, there were entered at the various land offices in New Mexico, most of them being homestead entries,

1,271,517 acres.

Mr. BEVERIDGE. Mr. President— Mr. FORAKER. In just a moment.

Then I have, written January 1, coming later than that, a letter from one of the registers—the one at Roswell. In this letter, dated January 1, 1903, addressed to Hon. B. S. Rodey, Washington, D. C., the writer says:

DEAR SIR: I have only time to report that this office had 205 homestead

entries in December.

That was during the last month alone.

This ought to mean 205 settlers.

J. L. GEYER.

Now I will hear the Senator from Indiana, if he desires.

Mr. BEVERIDGE. It was not very important. I was going to ask the Senator whether he meant to have the Senate infer

from this million or two acres of land entered that that many homesteads had been taken up in the sense that farms had been located and farmers located on them, because the Senator will. I am sure, bear me out when I state that many of these so-called homestead entries are made for the purpose of grazing in conjunction with grazing ranches; mere water holes. That is the point.

Mr. FORAKER. The information I have, and it comes from

the representatives of the Government, from the Government officers there who made the entries, is that most of the entries

are for actual settlers who propose to live on them.

Mr. BEVERIDGE. What is that?

Mr. FORAKER. Most of them, I say, are for actual settlers. Mr. BATE. I will suggest there that if these lands are taken for grazing and stock purposes, is it not necessary for some one

to be there?

Mr. FORAKER. Certainly. The statement I have here is that eight-tenths of these entries are for homesteads of a hundred and sixty acres each. About a million and a quarter acres of land have been entered since the census was taken. The Senator suggests that possibly some of this land thus entered was not to be devoted to agriculture as we understand it in this

part of the country

Mr. BEVERIDGE. I think the Senator is going to say just exactly what I was going to suggest. I have not the slightest doubt that some, perhaps many, of these homestead entries in the neighborhood of Roswell or in the district irrigated about there were taken up as farms by actual settlers. But the point to which I called the Senator's attention was that many others of them were taken up as portions of grazing ranches. He will recall the testimony of Professor Newell, that last year, in going over a great district of such homestead entries, he found the water holes dry.

Mr. FORAKER. Suppose he did find the water holes dry?

Mr. BEVERIDGE. They are not farms.

Mr. FORAKER. It is very interesting to know about the rivers that dry up and the rivers that do not dry up, and the artesian wells that flow and the artesian wells that do not flow, but what has that to do with the general proposition? What I am talking about is, first, that there is enough property there to sustain statehood, and when the Senator makes the point that they have uninviting conditions in New Mexico, he but emphasizes the right of these people to the reward of statehood. From the beginning of this Government down to this time we have put a premium upon the action of adventuresome and aggressive men who would go out, contending against the conditions of nature, to subdue nature, and make it a suitable place for people to live.

Mr. BEVERIDGE. I am not going to interrupt the Senator

again-

Mr. FORAKER. I do not care how much the Senator interrupts me. I am always glad to hear him.

Mr. BEVERIDGE. Thank you.

Mr. FORAKER. I want to debate this question. Mr. BEVERIDGE. The Senator misunderstood the point. Mr. FORAKER. I was going on to answer the remark of the

Senator.

Mr. BEVERIDGE. The point is that on many of these socalled homestead entries there is not anybody, and therefore there is no person of adventuresome spirit or of any other kind of spirit for the Government to encourage or otherwise. That is the point.

Mr. BATE. If I may be permitted to make a suggestion— The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. FORAKER. Certainly.

Mr. BATE. They have to have some one, a family, there before they can make a homestead entry. The law requires it.

Mr. BEVERIDGE. Not a family.

Mr. FORAKER. I call attention to what this officer of the Government says:

I have only time to report that this office had 205 homestead entries in

December. This ought to mean 205 settlers.

He does not say it does mean it. but he understood it meant it. What I want to say is that that does not matter for the purposes I have in view in this connection. I am coming to the question of population presently, and I will say something about how many people there are there. For the present I am discussing the question whether they have enough taxable property in the Territory to maintain statehood without being unduly burdened with a rate of taxation. I think I have abundantly shown it; and now I am answering the charge that although they may have enough to support statehood, they are not growing: that they are "stagnant."

Mr. President, a greater libel was never uttered against a brave and intelligent and patriotic people than that which has been repeated over and over again in this Chamber ever since this report came in here. I cite you to the post-office receipts, I cite you to the establishment of new post-offices, I cite you to the internal-revenue receipts, I cite you to the construction of railroads to show that they are anything but stagnant. There is as much business activity there, for the number of people, as you can find among 200,000 American citizens anywhere where the flag of America floats. Nowhere will you find greater activity. It is the very opposite of stagnation.

Now they say, "Yes. these entries have been made"—a million and a quarter acres: 205 homesteads in one land district in one month in New Mexico—"but how do you know that they are not intended for grazing purposes? Nobody will live upon them." I do not care as to that for present purposes. We have been told over and over again since this debate began about the arid wastes of New Mexico; about the millions and millions of acres that are to be found there unsuited to agriculture and which it is impossible to irrigate, and how it is all in consequence of no value.

Mr. President, my information, and I believe it is reliable, is that there is practically not an acre in New Mexico that is not capable of being utilized by that community for their own good, and especially for the good of this whole people. The good Lord in His providence made the arid lands of New Mexico for just the purpose they are subserving. That is to be the great meat supply for the hundreds of millions of people that are to occupy this country in the years to come. There, on those lands, which we are told are of no value, are to be found to-day millions of stock, consisting of horses and cattle and sheep. The majority of the committee do not know it. They did not stop in the Territory long enough to find it out. But hat is the fact; the records show it, and every man who is informed knows it. And that is not all. The herds are increasing. More and more the cattle

and other stock multiply, and all to our great good. I say all honor to the man who goes into that Territory, braving its hardships, submitting to its privations, engaging in any business he may find there lawful and proper to engage in, whether it be mining or manufacturing or an agricultural pursuit, or the grazing

of horses and cattle and sheep.

As I said a few minutes ago, and I do not want to be diverted from that, the committee have proceeded upon the theory that because the people of New Mexico have peculiarly difficult conditions to contend against they ought to be denied statehood. They do have peculiarly difficult conditions to contend against. But all the greater is the reason, when they have surmounted those difficulties, when they have bravely contended against them, that we should remember that they have a right to govern themselves, according to the principles of the American Constitution. That is all we are contending for. That is what will be denied them if this bill fails—something that is not only due them upon general principle, according to general precedent, but which is due them according to contract obligations as solemn as one nation ever

entered into with another.

Now I come to another point, Mr. President. Perhaps I have said enough on that topic. The point I wanted to make was that these Territories have a sufficient area, that they have sufficient property subject to taxation, to enable them to sustain statehood without being unduly burdened. In the next place, I have tried to show, answering the remarks of the Senator from Minnesota particularly in that regard, that they are not stagnant, as has been charged, but that they are alive, that they are growing. No community in the United States—and the Senator from Indiana can not find one when he comes to address the Senate and point it out—can show a greater development of an industrial character than that of New Mexico. I mean that he can not find one where among 200,000 people, situated as that people are, there has been an equal growth of post-offices and postal receipts and of internalrevenue receipts and of land entries during the same period of time. And all this is true and equally true, in proportion, of Arizona.

Now, Mr. President, I come to something else. I said a moment ago that there were three general questions which should be considered. One was area, about which there is no contention, and another is wealth and taxable property, and I have dwelt upon that sufficiently. It is all right, although the ordinance of 1787 did not require it, nor did any of the treaties under which we acquired territory require it, to consider whether or not the inhabitants there are progressive and aggressive, developing their resources and multiplying their wealth; and if I have spoken to any purpose I have shown that they are doing that in

both New Mexico and Arizona.

### POPULATION.

Now I come to the question of population, and before I take it up specifically let me make some general observations. In the first place, the Senator from Minnesota told us with great particularity how long it has been since the first settlements were made in Arizona and in New Mexico, and then he commented upon that and called attention to it and repeatedly called attention to the fact that they were among the oldest settled Territories in the United States; and then he pointed to the fact that notwithstanding they had been settled for two or three hundred years they

have only this population, insufficient, as he claimed, to entitle them to statehood.

Mr. President, why is it there has been this backwardness in the growth of population? You do not need to go outside of the speech of the Senator from Minnesota to find the answer. He pointed it out when he told us that New Mexico and Arizona were until only a very few years ago inhabited by wild and savage Indians, and he might have added Indians against whom for our people there the Government did not interpose any sufficient protection. Being thus overrun by Indians, people would not go there until it was made safe, when they could go to some other place where the tide of population was running. But that is not all. Take New Mexico. We acquired that Territory from old Mexico. We entered into a stipulation with respect to private property there—that all rights should be protected and titles be made secure. But how did we discharge that obligation? Not until 1891, I believe it was, did we take any effective steps or measures to settle the disputed Spanish land-grant titles in New Mexico. We then created a court, the Court of Private Land Claims, and set it to work. It is now completing its labors. I believe the time in which it was to complete its labors was extended at the last session until June, 1903. At that time its work will be concluded.

I have here the report of the United States attorney for that court. According to it it appears-I will not stop to read itthat that court has heard and has settled the title to more than 20,000,000 acres. These Spanish land grants, long years ago made. overlapping each other and duplicating each other, made it almost impossible for anybody to go into New Mexico and get a good title. Out of about 26,000,000 acres that were involved in these Spanish land-grant claims the court rejected all except about 2,000,000 acres, thus returning more than 20,000,000 acres to the public

domain.

It has been only within the last two or three years that a man going into New Mexico had any assurance that he could acquire a good title to land when he went there. That was enough to keep people out. Did the committee which visited that Territory tell us anything about that? There is report after report on file in the Interior Department and in the Department of Justice as to the effect of this condition on the Territory, retarding development there, retarding settlement there, keeping back the growth of population; and report after report as to the good effect that would follow from their adjudication; and the good effects are following.

It is because these claims have been settled that men can go there now and get title which they could not heretofore, and for that reason they are going. It is for that reason that their postoffices are multiplying, their postal receipts growing, their internal-revenue receipts growing. It is no wonder that the population has not grown more rapidly. The only wonder to me is that

it has grown as rapidly as it has grown.

### ORDINANCE OF 1787.

Now, Mr. President, let us speak of the question of population. The committee in their report, to which I have already referred, undertake to tell us that the ordinance of 1787 lays down a rule as to the population necessary to entitle a Territory to admission to statehood, and they undertake to state what that rule is. The committee seem to have gone through the ordinance of 1787 as they are reported to have gone through the Territory-too rapidly to have gained a just comprehension as to what the ordinance does provide. The ordinance of 1787 does not establish any such rule as the committee has deduced from it, and there is no warrant whatever for their deduction.

I had before me the speech of the Senator from Vermont [Mr. DILLINGHAM], which has been printed in pamphlet form and in

which I marked what I wanted to read.

Mr. BEVERIDGE. Here it is.

Mr. FORAKER. But I had one here which was marked. As I remarked, I had before me awhile ago the speech made by the Senator from Vermont [Mr. DILLINGHAM]. In that speech he quoted from the report of the committee as to what the committee says as to this rule, and with approval unqualifiedly stated that the ordinance of 1787 did establish the rule as laid down in the report of the majority of the committee. Here is what I refer to, said on that subject by the committee. I will read from the report:

The last work performed by the Continental Congress relates to this, and,

The last work performed by the Continental Congress relates to this, and, as Daniel Webster declared, is second in the importance, value, and wisdom of its provisions only to the Constitution itself. This was the famous ordinance of 1787 for the government of the Northwest Territory.

This ordinance provides for the future division of said Territory into not more than five nor less than three States, and it fixed the boundaries of three of them, namely, Ohio, Indiana, and Illinois. The fifth article of that ordinance provides that—

"Whenever any of said States shall have 60,000 free inhabitants therein such State shall be admitted, by its delegates, into the Congress of the United States on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government."

The committee then go on:

It is thus seen that the fathers, even in the eighteenth century, provided-First. For very large States as to area and resources (for it was then well known that the Northwest Territory was rich in agricultural resources and

the natural home of a mighty population); and second. That each of these States must have a population which, in comparison with the population of the rest of the Republic at that time, was very

heavy indeed.

This rule was referred to by President Washington in his message transmitting to Congress the constitution of Tennessee, and President Washington added that-

"As proofs of the several requisites to entitle all the Territories south of the Ohio River to be admitted as a State into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, etc."

"SIXTY-THOUSAND RULE" BASIS FOR SLIDING SCALE.

This number, however, was not intended to be a permanent requisite, but a standard referring to the population of the rest of the nation at the time. By comparing 60,000 (the number of people required for statehood in 1787) with the population of the nation at that time we find the ratio which statesmen of that day deemed essential as between communities applying for statehood and the nation itself. At that time the population of the United States was less than 4,000,000. If 60,000 were required as the first requisite for statehood when the population of the nation was less than 4,000,000, the same rule would require a population at the present time of over 1,153,000; and every reason supporting the rule of 60,000 established by the fathers' ordinance of 1787 requires as many more than 60,000 now as the population of the nation itself at present is larger than it was one hundred and fifteen years ago. nation itself at present is larger than it was one hundred and fifteen years ago.

They go on at considerable length to further discuss the matter, but I have read enough to show what they claim is the rule estab-

lished by the ordinance of 1787.

Mr. President, the committee did violence to the ordinance of 1787 when they made that quotation as the expression of that ordinance upon the subject they undertook to discuss. The ordinance of 1787 does state a rule, but it is not the rule of the committee. The only rule that is established by the ordinance of 1787 is that which is found at the conclusion of the declarations which precede the ordinance proper, the whereases, I will call them. There, speaking of the purposes for which that Territory was to be organized and civil government established over it, they say, among other things:

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these Republies, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which forever hereafter shall be formed in the said territory; to provide also for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States at as early periods as may be consistent with the general interest.

That is the rule established by the ordinance of 1787. No other rule was ever laid down by that ordinance except the one to which I now call attention.

Mr. BEVERIDGE. The Senator does not mean to say, I hope, that the quotation in the committee's report from the ordinance

of 1787 is not in that ordinance?

Mr. FORAKER. No; I do not. The quotation made by the committee from the ordinance of 1787 is correctly made, so far as it goes; but the Senator omitted, when he was undertaking to deduce a rule from the ordinance of 1787, that which was more controlling in the matter of establishing a rule than that which he quoted. When the Senator quoted from the ordinance of 1787 he but partly quoted, and he omitted to quote a proviso which limits and controls that which he did quote. I invite the attention of the Senate to this. Here is the whole clause from which, only in part, the Senator quoted. Now, let us see what it is, the whole of it.

And whenever any of the said States shall have 60,000 free inhabitants therein—

It does not say anything about having railroads, banks, and taxable property besides—

and whenever any of the said States shall have 60,000 free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent constitution and State government: Provided, The constitution and governments to to be formed shall be republican and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than 60,000.

The last part of this clause was not quoted by the Senator

when he was establishing his rule.

But is not that a part of what the ordinance said on the subject with respect to which the committee made the quotation? I submit, Mr. President, that if our attention is to be invited to the ordinance of 1787, there ought to be a fair quotation, and if we are to have a quotation from it at all, we ought to have all that properly relates to the subject.

Now, Mr. President, from that the Senator argues in his report that this ordinance required that there should be 60,000 people before statehood could be allowed. This he says was the rule of our fathers. They did not require any such thing. What they required was not that there should be 60,000 people for statehood,

but that there should be statehood for 60,000 people.

In other words, Mr. President, the framers of the ordinance of 1787 laid it down as a rule that the Territories of the Northwest

should be admitted to statehood whenever that could be done consistently with the general interest, whether they had 60,000 people or not, but that whenever they should have 60,000 people they should have an absolute right to come into the Union; that they

should not be kept out any longer.

It was not a percentage that they were trying to establish. The Senator proceeds, after having laid down that rule, to argue that 60,000 was but a certain percentage which he figures out of the then population of 4,000,000, and that, according to that percentage, established by the ordinance of 1787, there ought to be 1,153,000 people in any given Territory to-day to entitle it under that rule to admission. His whole percentage idea is untenable. It finds no warrant in the ordinance.

Mr. President, that ordinance was adopted in 1787. There was practically not a white man living, as a settled inhabitant, in the territory northwest of the river Ohio at that time. The first settlement, with the institution of civil government that followed, was at Marietta, Ohio, in 1788. It was known by the framers of the ordinance that it would be probably fifteen or twenty years, as it was, before there would be any Territory in the Northwest Territory having 60,000 free inhabitants within it to apply for admission, and they knew that the rest of the country would be growing in population in the meanwhile.

They knew then just as well as they knew later that Ohio

would not have 60,000 people until some fifteen or twenty years afterwards, and that there would be a growth for fifteen or twenty years of the 4,000,000 then inhabiting the 13 original States before she could apply for statehood; and the percentage of 60,000 would not then be of 4,000,000, but of whatever the

population might be at that time.

They knew more. They knew that probably Ohio would be the first, as she was, and that Indiana would probably be the second, Illinois the third, and that of the two other States created out of that Territory, Michigan and Wisconsin, it would be, as it was, probably sixty years after the ordinance of 1787 before the last of them could be admitted. They knew that what they were doing was not to establish a percentage, but that they were laying down an iron-clad contractual obligation for the benefit of the people who might go into those Territories, that whenever they might have 60,000 free inhabitants, no matter if there were 50,000,000 in the United States, they would have not only a right to ask for admission but a right to be admitted. That is what they knew; that is the rule they established; that is the rule they afterwards recognized and followed. Ohio was the first case. She was admitted in 1802, long before she had 60,000 free inhabitants.

She was not admitted as a matter of right, because she had not yet reached the point where she could demand admission, but she was admitted because, according to the rule laid down in the ordinance of 1787, our fathers found it to be consistent with the general public interest to admit her without regard to her population, and so they admitted her when she had only 42,000 free inhabitants.

Indiana was admitted in 1816 and Illinois in 1818. Indiana had more than 60,000 when admitted, though considerably less at the then last census preceding. Illinois had but 34,000 when she was admitted in 1818. Michigan was admitted in 1837, and Wisconsin was not admitted until, I believe, 1848; and when Wisconsin was admitted we had, according to the census taken a year or two afterwards, in 1850, a population of 31,000,000 people.

Mr. SPOONER. The whole country?
Mr. FORAKER. The United States, I say, had a population at the next census, following only a year or two afterwards, that

of 1850, of 31,000,000 people.

So the rule laid down by the fathers when they framed the ordinance of 1787 was that any one of these five Territories might be admitted at any time if it should be found consistent with the public interest, without regard to whether it had 60,000 free inhabitants or not; but whenever it had 60,000 it had a right to admission; and the idea underlying the rule was that it was due to 60,000 Americans living in a Territory that we should be willing to give them the right to govern themselves, as a reward for that which they had done for the whole country in going out into the wilderness and conquering it, driving out wild beasts and the still more wild, savage men.

Now, that is not all. Wisconsin had a right to come in when she did in 1848 if she had had only 60,000 people. She had more than that number; but if she had had only 60,000 she would have had a right to come in. The fathers looked forward to that and so provided. In doing so they were not striking a percentage of 4,000,000 as a basis, for they contemplated only 60,000 in the Ter-

ritory and 31,000,000 in the United States.

FAMILIAR HISTORY.

Let me here digress a moment to recall some familiar history

with respect to our territory.

The ordinance of 1787 applied to the territory northwest of the river Ohio, now the States of Ohio, Illinois, Indiana, Michigan, Wisconsin, and part of Minnesota. Shortly afterwards, in May, 1790, the Congress passed an act extending the provisions of the ordinance of 1787 to the territory south of the river Ohio, expressing in that act that the inhabitants of that territory south of the river Ohio should by virtue of that act become invested with all the rights and privileges guaranteed by the ordinance of 1787.

Two or three years afterwards—I have forgotten exactly the date; in 1794, I believe it was—Tennessee, which was a part of the territory south of the river Ohio, applied for admission into the Union.

Mr. BATE. In 1796.

Yes: in 1796. First, Vermont was admitted. Mr. FORAKER. Let me correct what I have said. The territory south of the river Ohio embraced what are now the States of Kentucky, Tennessee, Alabama, and Mississippi. The first Territory admitted was that of Vermont, which had belonged to New York. was no stipulation in that case as to the time when she would have a right to enter the Union; but there was a stipulation in the ordinance of 1787 as to all the territory northwest of the river Ohio, and by virtue of extending it to the territory south of the river Ohio the same rights of admission accrued to Kentucky, Tennessee, Alabama, and Mississippi.

Mr. BACON. I will correct the Senator, with his permission. At that time Alabama and Mississippi were not Territories of the

United States, but territory of the State of Georgia.

Mr. FORAKER. Yes; they were a part of the State of Georgia, as Kentucky was a part of the State of Virginia and Tennessee was a part of the State of North Carolina.

Mr. BATE. She was independent.

Mr. FORAKER. Alabama and Mississippi were a part of Georgia and South Carolina.

Mr. BACON. Kentucky and Tennessee, I understand, were

Territories

Mr. BATE. The State of Tennessee was the State of Franklin

about that time.

Mr. FORAKER. That is true. I do not mean that they were a part of those States in the sense that they were included within the State government. They were territories belonging to those States.

Mr. BATE. Afterwards Franklin came in as a part of the territory of North Carolina.

Mr. FORAKER. For my purposes-

Mr. BACON. That is not true as to the State of Georgia. The jurisdiction of the State of Georgia extended to the Mississippi

River in the original grant.

Mr. FORAKER. I think so, but there is a strip across the northern end of both Alabama and Mississippi that belonged to South Carolina. I remember that. I once had occasion to examine it. I did not think this was an important matter and I was not trying to quote accurately. I simply want to say that the provisions of the ordinance of 1787 were extended to the territory south of the river Ohio, and thus came to apply to all this territory.

TENNESSEE.

The first to act under it was the Territory of Tennessee. How did she do? The Senator from Indiana in his report alludes to the message of George Washington in that connection as though George Washington was approving the rule for which he con-The record refutes the claim.

The State of Tennessee proceeded, without any enabling act being first passed by the Congress of the United States authorizing it to do so, to hold a convention and frame a constitution and adopt it, and to choose a legislature and elect Senators and Con-

gressmen.

Mr. BEVERIDGE. And to take a census.

Mr. FORAKER. I will come to that in a minute. She did that, and she sent her representatives here with a notice to the General Government that on a certain date the Territorial government which the Congress had established for her would go out of existence and the State government would come in.

When the Constitution was submitted to George Washington he transmitted it to the Congress of the United States, calling attention to the provision of the ordinance of 1787, which had inured to the benefit of Tennessee by reason of extending the ordinance to the territory south of the river Ohio, and saying, in that connection, that they claimed to have the requisite population, and they did have  $60.000\,\mathrm{free}$  inhabitants. They had  $54.000\,\mathrm{whites}$ and 6,000 free negroes, and, so far as the record shows, they did not have anything more. I do not know how much property they had; but there was nothing said about manufacturing establishments, nothing about banks. I do not suppose that there was a bank of issue at that time in the Territory. Of course we know that there was not. There was but little of anything.
Mr. CARMACK. The taxes were paid in 'coon skins.

Mr. FORAKER. The taxes were paid in 'coon skins, as the Senator says. At any rate, we know, Mr. President, that the

only question as to Tennessee was, "Do you have 60,000 free inhabitants?" And she answered, "Yes; we have counted them." She did not consult the National Government. They said, "We stand on our right, under the ordinance of 1787. We have the right to come into the United States whenever we have 60,000 free inhabitants and we find that we have them; we are entitled to statehood, and here we are." George Washington conceded their right as far as he could. I wish to read what he said—and will do so in a moment.

The point I am contending for in this connection is that what the ordinance of 1787 conferred was a right to demand admission whenever there were 60,000 people. The Senator will remember that the ordinance of 1787 was afterwards extended to Oregon, and Oregon demanded admission on the same ground. She was allowed admission before she had the 60,000, but it was agreed, without any dissent whatever, that because of the conferring upon her of the rights enumerated in the ordinance of 1787 she would be unquestionably entitled to admission whenever she had 60,000.

I read now from House report, first session Fiftieth Congress, 1887-88, volume 4, the committee report, by Mr. Harrison, to accompany Senate bill 967. I call attention to the following as to the State of Tennessee. In this report Mr. Harrison reviewed the history of the different acts of admission of Territories by Congress to statehood:

The following extract from Hough's American Constitutions (vol. 2, p. 318)

The following extract from Hough's American Constitutions (vol. 2, p. 318) shows the course taken by the p-ople of Tennessee:

"A convention, elected for preparing a State constitution, met at Knox-ville January 11, 1796, and the next day a committee of two from each county was appointed to prepare a constitution. A bill of rights was reported on the 15th, and a frame of government on the 27th, by Daniel Smith, chairman of this committee. Their labors being completed, on the 6th of February an engrossed copy was read and passed; on the 18th an engrossed copy was forwarded to the President, with a notification that on the 28th day of March, at which time the legislature would meet to act on the constitution, the temporary government established by Congress would cease. This notification, with accompanying documents, was received by the President February 28, and laid by him before Congress on the 8th of April. The claims of the new State for admission were not recognized by all, but, after an energetic discussion, the bill became a law on the 1stof June, 1796. The principal grounds of opposition were that the proceedings had not been authorized by an enabling act of Congress: that the census being taken by those most interested in showing a large return might be liable to error; and that it belonged to Congress to decide whether one or more States should be formed in the ceded Territory, and to establish the time and manner of organization."

The message of President Washington, transmitting the constitution to Congress, is so full of interest that we copy it in full:

"Gentlemen of the Senate and House of Representatives: By an act of Congress passed on the 26th of May, 1790, it was declared that the inhabitants of the territory of the United States south west of the territory of the United States northwest of the triver Ohio; and that the government of said territory south of the Ohio should be similar to that which was then exercised in the certified 'An act to accept a cession of the claims of the State of N

to accept a cession of the claims of the State of North Carolina to a certain district of western territory."

"Among the privileges, benefits, and advantages thus secured to the inhabitants of the territory south of the river Ohio appear to be the right of forming a permanent constitution and State government, and of admission as a State by its delegates into the Congress of the United States on an equal footing with the original States in all respects whatever when it should have

therein 60,000 free inhabitants:

"Provided. The constitution and government so to be formed should be republican, and in conformity to the principles contained in the article of the said ordinance.

"As proofs of the several requisites to entitle the territory south of the river Ohio to be admitted as a State into the Union, Governor Blount has transmitted a return of the enumeration of its inhabitants, and a printed copy of the constitution and form of government on which they have agreed, which, with his letters accompanying the same, are herewith laid before Congress.

"G. WASHINGTON.

"United States, April 8, 1796."

That led to a debate in which some of the most distinguished statesmen of that day participated. Mr. Madison spoke, and he said:

The inhabitants of that district of country were at present in a degraded situation; they were deprived of a right essential to freemen—the right of being represented in Congress.

As far back as that in our history the right of self-government seems to have been greatly appreciated.

Laws were made without their consent, or by their consent in part only. An exterior power had authority over their laws; an exterior power appointed their executive, which was not analogous to the other parts of the United States, and not justified by anything but an obvious and imperious necessity. He did not mean by this to censure the regulations of this provisional government, but he thought where there was doubt Congress ought to lean toward a decision which should give equal rights to every part of the American people.

Mr. Macon said:

"There appeared to him only two things as necessary to be inquired into: First, was the new government republican? It appeared to him to be so; and, secondly, were there 60,000 inhabitants in the Territory? It appeared to him there were; and if so, their admission as a State should not be considered as a gift but as a right."

Mr. Gallatin said:

Mr. Gallatin said:

"The people of the Southwestern Territory became ipso facto a State the moment they amounted to 60.000 free inhabitants, and that it became the duty of Congress, as part of the original compact, to recognize them as such and to admit them into the Union whenever they had satisfactory proof of the fact. \* \* \* Either you must acknowledge that their admission depends solely on the condition of the compact being fulfilled, to wit, their having the number required, or you declare that it rests upon another act, which may be done or refused by the other party; that Congress have the power, by neglecting to lay them out into one or more States, or by refusing to pass a law to take a census, to keep them forever in their colonial state."

He cites some others; but I have read enough to show the character of the debate, and to show that Tennessee, when she presented herself, did not come as a petitioner, but came as one having a right, demanding that she be recognized, that she be admitted, and she did not ask in vain when she applied to George Washington, then President of the United States, for a recognition of her right. He transmitted her constitution to Congress, calling the attention of Congress to the fact that under the provisions of the ordinance of 1787 she appeared to have a right to admission, because she had 60,000 free inhabitants.

### MICHIGAN.

Later this question again arose when Michigan, in 1837, applied for admission. I do not want to weary the Senate, but I want to

read briefly from one or two of these cases.

Michigan repeatedly asked to be admitted, and admission was denied her. Finally she proceeded without any authority from Congress, or any permission from Congress, organized a State government, and then sent on her Senators and Representatives to Washington; and they demanded recognition, and here is what occurred-

Mr. BEVERIDGE. I think it is pertinent to ask the Senator a question at that point. Do I understand him to indorse the position that Michigan and Tennessee took, that they had a right to declare their Territorial governments terminated by their own act and come here and demand, whether the Congress of the

United States saw fit or not, to be admitted into the Union? Is

that the Senator's position?

Mr. FORAKER. Mr. President, it is not material whether I indorse that position or not. I think that is a debatable proposition; but the ablest men representing this Government in Congress at that time, Mr. Madison, Mr. Gallatin, and such men, took that position, and George Washington took that position.

Mr. BEVERIDGE. Did he? Mr. FORAKER. Yes, he did; and I have just read what he said in his message, that Tennessee appeared to have a right to organize a State government and be admitted when she had 60,000

free inhabitants.

Mr. BEVERIDGE. The reason I asked the question of the Senator was that I have listened with care to the Senator's able argument, and it seems to me the point he is now addressing himself to is that a Territory may, whenever it has a certain number of inhabitants, terminate its Territorial government of its own motion, and declare, as in the case of Tennessee, that it ceases to exist in that condition, and becomes a State by its own action without reference to the action of Congress. It is important to know whether that is the position of the Senator.

Mr. FORAKER. It is not important to know, for I am not making any such contention: but I will answer the Senator with all courtesy and respect if he will just give me the chance to do so.

Mr. BEVERIDGE. I will.

Mr. FORAKER. No Territory can cease to be a Territory and enter upon the enjoyment of the rights of a State until Congress acts concurrently with it by the recognition of its Representatives, but a Territory can do as was done in the case of Tennessee, take the position that there was a contractual obligation between the United States and that Territory that it should be admitted to statehood whenever it had 60,000 free inhabitants. That position was taken later in the case of Michigan, and the claim was recognized in both instances, after an able debate in each case. It was said in the debate in respect to Michigan:

They have taken a census of the Territory; they have formed a constitution, elected their officers, and the whole machinery of a State government is ready to be put in operation; they are only awaiting your action. Having assumed this attitude, they now demand admission as a matter of right; they demand it as an act of justice at your hands.

So the debate goes on. I read this, Mr. President, in order that I may support myself in denying, as I have done, that any such rule as that contended for by the committee was laid down in the ordinance of 1787. No such rule was ever heard of, thought of, or even suggested until in this instance, so far as I have been able to discover.

I have read enough to show it was contended in every instance, when the question arose, just as I have contended here, that whenever a Territory to which the ordinance of 1787 applied asked for admission, Congress was free to admit it, whether it had 60,000 free inhabitants or not; but that it was compelled to admit it if it did have that population, or violate its plighted obligation. Not only was that claim made, but in every instance that right was recognized until it became an established rule.

OREGON.

The ordinance of 1787 was extended to Oregon, and when Congress came to admit Oregon the same argument was made. I will not stop to read it, but it is embodied in the same report, and anybody can read it who desires to do so.

I want to pass to something else. I want to guit that, however. with this general statement; and if I have talked to any effect I am warranted now in making the statement that the rule laid down by the ordinance of 1787 was not a rule of percentage. That ordinance did not say, or say anything in the nature of such a thing, that a Territory whenever it might have such a percentage of population within its limits of the whole population of the United States as 60,000 bore to 4,000,000 it should be entitled to admission, but it said that whenever 60,000 free inhabitants are found within any Territory they ought to be given statehood, that they should have statehood. That is what they obligated themselves to give, and what they did give in every instance; and where there was any question in the admission of a Territory to statehood after it had 60,000 inhabitants, it was because of some of the phases of the very troublesome question then uppermost in American politics—the question of slavery. There was a time when there was an effort to balance State against State, when States were admitted together, as, for instance, when Missouri and Maine came in together; and in so far as there was any delay in recognizing this plighted obligation, it was due to facts of that character, and to nothing else.

Mr. SPOONER. Will the Senator permit me to ask him a ques-

tion only for information?

Mr. FORAKER. Certainly.

Mr. SPOONER. The Senator is very familiar with the history of the admission of Territories into the Union. I was at one time, but I am not now. Does the Senator remember any instance, except, perhaps, in the case of Nevada, where a Territory was admitted into the Union which did not possess, excluding Indians not taxed, a population equal to the then ratio of representation in the House of Representatives?

Mr. FORAKER. Mr. President, there are instances of that

kind-

Mr. Spooner rose.

Mr. FORAKER. If the Senator will allow me, I was about coming to discuss that rule.

We have had two rules, and only two. Mr. SPOONER. But what is the fact?

Mr. FORAKER. I am speaking of a fact now, and I will come to the other facts in a minute. It is not material to follow it out, but I will tell the Senator we have had two rules as to the population requisite. One rule was that establised by the ordinance of 1787, and the other rule was that established by our treaty with France, which we followed in our treaty with Spain when we acquired Florida, and subsequently followed, with a parenthetical modification, in our treaty with Mexico. I will speak of that presently.

In every instance where the ordinance of 1787 applied, or was extended so that it did apply, to a new Territory, the rule prescribed by it was followed and was determined to be the one that should govern as to its admission—and that was that Congress might admit it whenever it saw fit, whether there were 60,000 inhabitants in the Territory or not, but that that Territory had a right to demand admission whenever it might have 60,000 people.

TREATIES.

The other rule was this: In 1803 we made the Louisiana purchase under a treaty entered into with France; a treaty with which all Senators are familiar. There occurred in that treaty

language that I want to quote in this connection. Article III of the treaty with France provided:

#### ARTICLE III

The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution—

"According to the principles of the Federal Constitution"—that is a phrase to which I call special attention—

to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

While I am about it I will call attention to the next treaty in which that occured in connection with territory ceded to us, which was the treaty with Spain entered into February 22, 1819:

ARTICLE VI.

The inhabitants of the territories which His Catholic Majesty cedes to the United States by this treaty shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

Then followed, in 1848, the treaty of Guadalupe-Hidalgo, the

ninth article of which reads as follows:

The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, at the proper time (to be judged of by the Congress of the United States), to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution.

Senators will observe that the language is practically the same that I have read from the treaties with France and Spain, and different in effect as to the treaty with Mexico only as it is made different by the parenthetical clause that Congress should have the right to judge as to the time of admission.

ARKANSAS.

Under the first treaty with France we took all that vast domain of territory that has since been erected into so many States and Territories. Arkansas was one of the Territories of the Louisiana purchase admitted to statehood; and in connection with the admission of Arkansas the question arose what was meant by the phrase "admitting her to statehood according to the principles of the Federal Constitution." Everybody, almost, agreed that admitting her according to the principles of the Federal Constitution meant admitting her when she might have a population equal to the unit of representation in the House of Representatives, whatever that unit might be at the time; that in this free, popular Government of ours representation was an essential part of all legitimate government; and that whenever a people inhabiting an area we had designated as a Territory reached the point in the development of population where they were equal to the unit of the ratio of representation, they were entitled to be admitted to the Union. That was the position taken.

Now, Mr. President, I want the attention of the Senator from Indiana to this fact: Not only was that the contention in the case of Arkansas, but it was the contention in the case of Florida as well. She was admitted under the treaty with Spain. In that debate the contention was that she had a population equal to that unit of representation; and she was admitted. The question arose, in connection with numerous other Territories when they applied for admission to statehood, and notably years afterwards, in connection with the application of Kansas to be admitted to statehood.

On this point Mr. Douglass said, in a minority report made by him:

While the Constitution of the United States does not, in terms, prescribe the number of inhabitants requisite to form a State of the Union, yet, in view of the fact that representation in the House of Representatives is to be in the ratio of Federal population, and that each State, no matter how small its population, is to be allowed one representative, it is apparent that the rule most consistent with fairness and justice toward the other States and in harmost consistent with fairness and justice toward the other States and in harmony with the general principles of the Federal Constitution is that which, according to the ratio of population for the time being, is sufficient for a representative in Congress. A reference to the debates which have occurred in all the cases touching the sufficiency of population in the admission of a State will show that the discussion has always proceeded on the supposition that the rule I have indicated was the true one; and the effort has been, on the one side, to prove that the proposed State had sufficient population, and on the other, that it has not the requisite numbers to entitle it to admission in substantial compliance with that rule. Process in more ity report by Mr. Doug. stantial compliance with that rule. (Page 55, minority report by Mr. Douglass, February 18, 1858. Senate reports, first session Thirty-fifth Congress.)

Mr. BEVERIDGE. And then the rule of 60,000 inhabitants was abandoned

Mr. FORAKER. The sixty-thousand rule was not abandoned. The sixty-thousand rule was not invoked because the ordinance of 1787 never applied to the Louisiana purchase. What I contend is that while as to all the Territories to which the ordinance of 1787 applied the sixty-thousand rule did apply, and was recognized as applying, whenever it came to territory outside of that purchase to which the ordinance of 1787 was not extended then the unit of representation was the rule, and that in such cases it was adopted and followed.

Mr. BEVERIDGE. Does the Senator agree to that rule of representation now?

Mr. FORAKER. Yes. I do.

Mr. BEVERIDGE. Then what will the Senator say as to Arizona?

Mr. FORAKER. Now, Mr. President, the Senator has asked me a question which he thinks is bothersome.

Mr. BEVERIDGE. No. I do not.

Mr. FORAKER. The rule which I tell the Senator has always been contended for is this, that Congress could, in every instance, admit to statehood when the Territory was under the ordinance of 1787, without regard to the fact whether it had 60,000 inhabitants or less, but when it had 60,000 it was governed by that rule, and Congress had to admit as a matter of right or disregard our obligation; and that when it came to a Territory organized out of territory acquired under these treaties they could admit before they had a population equal to the ratio of representation if Congress so desired, but that it was the duty of Congress to admit when the population was equal to the ratio. Congress, acting upon this rule, has admitted, in many cases, before the population was equal to the ratio. In fact, in only a very few cases did they wait to admit a Territory until it had a population equal to the unit of representation. In a number of cases they did, but in quite a number they did not. Now, let me read as to that. Here is what John Quincy Adams said—and I call the attention of the distinguished Senator from Massachusetts to it-in the Arkansas case. He said:

I can not, consistently with my sense of obligations as a citizen of the United States and bound by oath to support their Constitution—I can not object to the admission of Arkansas into the Union as a slave State: I can not propose or agree to make it a condition of her admission that a convention of her people shall expunge this article from her constitution. She is entitled to admission as a slave State, as Louisiana and Mississippi and Alabama and Missouri have been admitted by virtue of that article in the treaty for the

acquisition of Louisiana, which secures to the inhabitants of the ceded Territories all the rights, privileges, and immunities of the original citizens of the United States, and stipulates for their admission, conformably to that principle, into the Union.

And throughout this debate it was conceded, as in all the other debates substantially, that whenever a Territory which belonged to any of these cessions and was governed, therefore, by that clause of the treaty, had a population equal to the unit of representation, it was entitled as a matter of right to admission.

Mr. HOAR. Mr. President, may I ask the honorable Senator a question, that I may understand his very interesting proposition?

Mr. FORAKER. Certainly.

Mr. HOAR. I ask the Senator whether by the term "territory," when he speaks of a Territory having certain rights, he means Territory organized under the laws of the United States

or whether he means a tract of territory?

Mr. FORAKER. I mean simply what I have been talking about. I have been reading from the record, and I have been showing what was said and what was done in the case of Tennessee and in the case of the other Territories that were governed by the ordinance of 1787. There it was held that they might be admitted to statehood earlier than the time when they had 60,000 inhabitants, but that they had a right to claim admission and to have it conceded to them when they did have 60,000. When it came to the other class of territory, that which we acquired by treaty under cession from France, cession from Spain, and cession from Mexico, the rule has been just as invariable as it has been under the ordinance of 1787, that whenever Congress might see fit to do so it could admit organized Territories from this territory to statehood, but that it was under obligation to do so, whether it discharged that obligation or not, whenever the Territory had a population equal to the ratio of representation.

Mr. HOAR. The Senator will allow me in one sentence to make my meaning clear. I do not rise for any argument or any delay, but only to understand what I regard as one of the most interesting and important doctrines that could be laid down in

debate here.

I understand the Senator—without going into the historical question at all now—to claim that there is an obligation now resting upon the Congress of the United States to admit a Territory which contains a population equal to the unit of representation.

Mr. FORAKER. Whenever such a case is made out.

Mr. HOAR. That is the claim which the Senator is supporting by these historical citations. Now, when he lays down that proposition as to our present obligations to a Territory, does he mean an organized Territory with a legislature or does he use the word "territory" in the other sense of a tract of country containing that population?

Mr. FORAKER. Well, Mr. President, I mean a Territory established by the United States Government, carved out of territory governed by the ordinance of 1787 in the one case or acquired

under treaty in the other.

Mr. HOAR. Then that question is preliminary to another, if the Senator will understand—

Mr. FORAKER. I do not object to interruptions, except that

it is getting late.

Mr. HOAR. I will not burden the Senator. He may be quite sure I shall endeavor not to do so.

Then does the Senator doubt that if there be an organized Ter-

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ritory of the United States, with 60,000 people and a legislature. the United States have the absolute power and right, if they think the public interests require, to abolish that Territory, cut it up into a half dozen Territories, or to annex it to some other Terri-

tory containing half a dozen times its population?

Mr. FORAKER. Well, Mr. President, I do not know that I comprehend in full the question of the Senator; but whether I do or not, I do not understand the purpose of it. In this case is involved the question—and I do not know whether the Senator has reference to that or not-whether the Indian Territory shall be

added to Oklahoma. If so, it is a practical question.

Mr. HOAR. My question is this: I want to test the Senator's argument that there is a right creating an obligation on the part of Congress to admit a Territory when it has a population equal to the unit of representation. Now, I wish to test that argument by inquiring whether the Senator doubts that this being called a Territory which has that right is a being which at any moment can lawfully be abolished by Congress, lawfully be cut up into half a dozen smaller ones, or lawfully be annexed to a larger one with ten times its number, because it seems to me-

Mr. FORAKER. I object, Mr. President, to being any longer

interrupted. I want to conclude my remarks.

Mr. HOAR. Very well.

Mr. FORAKER. I do not see the pertinency of the question.

but I shall answer what I understand it to be.

I have been standing here for two hours arguing intelligent propositions, and not hesitating to tell people what I had reference to—not putting anything theoretically. I have been saying that under the ordinance of 1787 a right arose as to the Territories to which that ordinance applied as the organic government. I have been saying that under treaties with Spain, France, and Mexico a right arose as to the inhabitants of the territory ceded by those treaties, and I have been telling what that right is. I am not talking about abstract propositions. I do not know whether the Senator from Massachusetts has in mind Guam, Tutuila, or the Philippines, or what; but whatever he has in mind, I answer him that I am discussing the contractual obligations of this Government, with a view to making application of them to the case before the bar of the Senate.

Mr. HOAR. So was I.

Mr. FORAKER. Now, if the Senator in asking me a question will tell me what he has in mind, I will take pleasure in answering him, but I do not want to be involved in theoretical discussions.

I was about proceeding to show to the Senator from Indiana [Mr. Beveridge] that in the debate with respect to Oregon this question arose, and Mr. Harrison calls attention in that connection to this fact. One of the members, Mr. Clark, said:

I claim that Oregon has a right to come in under the ordinance of 1787, and that it is the duty of Congress to admit her on the same principle and according to the same rule established in that ordinance for the Northwest Territory

Mr. Harrison, after citing quotations from all the leading debaters in that debate, adds the following:

It is worthy of remark here that in this debate it was conceded on both sides that the possession of a population equal to the ratio of representation in the House of Representatives was all that could be demanded of a Territory applying for admission.

That is the rule, and there never was a departure from it until this late day. What I have been contending for is simply this,

that when we come to a Territory that was a part of the Louisiana purchase, which we have seen fit to organize, or a Territory that was part of the purchase from Spain, the rule was not 60,000 inhabitants, as fixed by the ordinance of 1787, but the unit of representation, whatever it might happen to be at the time. That being the rule, it was followed as to every Territory, nobody disputing it in any serious way; that was the rule that obtained, that a Territory had a right to be admitted whenever she could show that she had a population equal to the ratio of representation and show that she belonged in the territory acquired by either the Spanish or the French cession.

TREATY WITH MEXICO.

I come now to the cession from Mexico. It is said with respect to that cession that the rule which we applied as to the cession from France and the cession from Spain does not apply, because there was interpolated in the treaty the parenthetical clause to which I have already referred. The article reads as follows:

The Mexicans who, in the Territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution.

Now, it is said that because that parenthetical clause is inserted—"to be judged of by the Congress of the United States"—the same rule does not apply to territory acquired from Mexico, which it was conceded by everybody, until very recently, applied to territory acquired from France and territory acquired from Spain. Now, that does modify it. There is no question about that. So far as the naked legal obligation is concerned, it gives the Congress a right to postpone indefinitely admission to statehood. But history, concurrent with the negotiation and ratification of that treaty, shows conclusively that it was understood by the representatives of this Government who framed it and secured its ratification that it meant the admission to statehood of New Mexico, just as Californiawas admitted to statehood, in the then near future, and there was no thought of waiting fifty years for such admission.

I might quote here at very great length, but it is enough for me to quote on that point from the messages of President Polk and President Taylor. President Polk said, in his annual message of December 5, 184°, page 641 of the Messages and Papers of the Presidents, speaking of the slavery question and the difficulties arising as to its right to go into the Territories and be

there established:

It is fortunate for the peace and harmony of the Union that this question is in its nature temporary, and can only continue for the brief period which will intervene before California and New Mexico may be admitted as States into the Union.

That is one expression. President Taylor said, in his annual message of December 4, 1849, page 19 of volume 5 of the Messages and Papers of the Presidents, after discussing California:

The people of New Mexico will also, it is believed, at no very distant period present themselves for admission into the Union. Preparatory to the admission of California and New Mexico the people of each will have instituted for themselves a republican form of government, laying its foundation in such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.

I might read at much greater length, but I am hurrying through, to conclude, if I can, this afternoon. Then at page 27 of the same

volume, in a special message dated January 23, 1850, President Taylor said:

With a view to the faithful execution of the treaty so far as lay in the With a view to the faithful execution of the treaty so far as lay in the power of the Executive, and to enable Congress to act at the present session with as full knowledge and as little difficulty as possible on all matters of interest in these Territories, I sent the Hon. Thomas Butler King as bearer of dispatches to California, and certain officers to California and New Mexico, whose duties are particularly defined in the accompanying letters of instruction addressed to them severally by the proper departments.

Thus he lay before Congress the claims of these two Territories, the claims of New Mexico as well as the claims of California, to admission to statehood under the treaty of Guadaloupe Hi-

dalgo, concluded in 1848.

At that time, Mr. President, no one had a thought but that the same rule was to be applied to New Mexico that was applied to California and that had been applied—I mean the same rule of right - under the treaties with France and the treaties with Spain. While therefore, under the parenthetical clause the legal effect is changed and Congress has a right to judge and has not broken any strictly legal obligation, yet it is in violation of our moral obligation to that people that we have not given them statehood

ere this.

So, then, I claim with respect to New Mexico, it being a Territory organized by us, that she has reached a point, as shown by the last census, where her population is sufficiently large to indicate that she is entitled to admission to statehood as a strict moral right under the treaty by which she was ceded by Mexico to the United States. Such being the case, New Mexico has a right to the benefit of the rule arising under the treaties. I want now on that point to read one thing further from Mr. Harrison's report contending for the rule that whenever a Territory shows it has a population equal to the unit of representation it is entitled to statehood. He concludes the discussion with this statement:

It may be said of this rule that it is not arbitrary, but founded on reason. It preserves an equality of representation. If we go beyond this, it becomes a matter of arbitrary caprice, of whim, or of party emergency.

That seems to me to be good, sound doctrine. It seems to me to be the announcement of a rule safe to follow. We know that it is a rule which has been recognized in every debate with respect to statehood since this Government was inaugurated and Territories commenced to be admitted. Mr. Harrison called attention to the fact that in the case of Oregon it was conceded by everybody, on both sides, that that was the rule of right which should obtain where they had come in under the treaty, and the right was to be admitted "according to the principles of the American Constitution." That clause was so construed by Mr. Madison, by Mr. Gallatin, by all the great men of the early days of the Republic, and has been followed in an unbroken line of cases from that time until this, so far as recognizing and admitting it may be concerned, although it has not always been acted upon.

So I say while Congress is all powerful and not required to follow any rule, except the general interest, yet when it seeks to follow a rule of right, there are but two that have ever been recognized. One is that a Territory shall be admitted, if it come under the ordinance of 1787, when it has 60,000 people, without regard to how great the population of the whole country has become. The other is when it has a population equal to the unit of

representation, it is entitled to come in.

[At this point Mr. FORAKER yielded the floor for the day.]

### Monday, January 19, 1903.

Mr. FORAKER. Mr. President, when I yielded the floor for our last adjournmen. I had just finished the remarks I desired to make upon the rules as to population in so far as any have been claimed or recognized, at least so far as I am aware, applicable

to the question of admitting a Territory to statehood.

Senators will remember that I was making that contention in answer to the claim of the majority of the Senate Committee on Territories, their claim being that a rule as to population had been laid down by the ordinance of 1787, which they desired to have applied to these Territories. Their contention was that the rule of the ordinance of 1787 was in effect a rule of percentage, and that before these Territories or any other Territories at this time could be held to be, as to population, qualified for admission, they must have, each of them, 1,153,000 population.

I undertook to show, and I believe I did show, that the ordinance of 1787 does not announce any such rule, and that there was no warrant for such a contention in anything to be found in the ordinance of 1787, and certainly not in that part of it which

was quoted by the Committee on Territories.

I undertook to make it plain that by the ordinance of 1787 it was provided that Territories, the ones there named, should be admitted to the Union as States at the earliest moment possible consistent with the general interest, and that there was no other general rule prescribed. All that was said on that subject in addition was that whenever these Territories should have 60,000 free inhabitants they should be entitled to admission into the Union, and then there was an express provision to the effect that they might be admitted before they had 60,000 if Congress in its wisdom and judgment would see fit so to permit.

I pointed out further that this rule has been claimed and recognized, not only with respect to the territory then a part of the Northwest, but with respect to all the Territories of the United States to which the ordinance of 1787 has been extended as an organic law. I pointed out what was claimed and what was conceded in the case of Tennessee, and in the case of Michigan, in both of which cases, having 60,000 inhabitants, the Territories organized State governments, sent their representatives to Washington, and demanded a recognition of their rights. George

Washington in the one case, in his message, practically conceded the right, as did Andrew Jackson in the other case.

The language of George Washington I cite particularly in order that I may answer a deduction made by the Senate Committee on Territories as to his interpretation of the ordinance of 1787 in that regard. He said in his message that it appeared that according to the provisions of the ordinance of 1787, which had been extended to Tennessee, the people of that Territory having 60,000 free inhabitants, had a right to organize a State government and be admitted as a State into the Union. Practically the same thing was said and the same thing done as to Michigan: and later that rule was invoked and recognized as to Oregon, which was admitted before she had a population equal to the unit of representation in the House of Representatives at that time.

Then, Mr. President, I undertook to show that as to all the territory which we have acquired under cessions made to us by treaties with France and Spain a different rule prevailed. The

language of those treaties is in that respect that the inhabitants of the territory ceded shall be admitted into the Union. I am not undertaking to give it exactly, but simply to give its legal effect, "according to the principles of the Federal Constitution." I undertook to show that the phrase "admitted into the Union, according to the principles of the Federal Constitution," has always been interpreted to mean that that territory, subdivided as we might see fit to subdivide it into States, should have the right, each and every subdivision of it, when created into a Territory preparatory to statehood, to be admitted to statehood whenever it might have a population equal to the unit of representation.

Mr. SPOONER. And republican in its form of government.
Mr. FORAKER. Yes. Mr. President, I am not undertaking
to quote that part of the treaty stipulation about which there is
no controversy; I am confining myself, if the Senator will pardon
me, to only that part about which there may be some difference

of opinion, or some room for argument.

Mr. SPOONER. The Senator commented upon the language "according to the principles of the Constitution," and said the Territories should have a certain population to entitle them to admission as States. I simply added the requirement that they

should have a republican form of government.

Mr. FORAKER. The Senator is quite right, and if I had been undertaking to quote with accuracy the whole stipulation I should, of course, have quoted that; but I was confining myself to that part of it about which there has been some difference of opinion, and there may be a difference of opinion again, though, according to the precedents, there is not much room for it, as I understand them.

Then I undertook to show that our treaty with Mexico, under which treaty we acquired certain territory, contains that same stipulation, with the modification that expressly invested Congress with the discretion to judge as to the time when it should be admitted to the Union, imposed a moral obligation that has practically ripened into a legal obligation, if we want to carry out the

spirit of that treaty at this time.

In that behalf I quoted from the messages of President Polk and President Taylor—men who had the most to do with the ratification and execution of the treaty—to show that it was their understanding that the faithful execution of the treaty required that New Mexico should in a very brief time be admitted to

statehood.

Mr. President, the rule is, therefore, as to these Territories, if I am right in these premises and in this conclusion, that the Territory of New Mexico and the Territory of Arizona are entitled, as a matter of right, to statehood, if they are to be treated as other Territories have been, whenever they can show that they have a population equal to the unit of representation; and that Congress has the right, exercising its judgment and discretion, to admit them to statehood before they have such population as will equal the unit of representation. In that behalf I called the attention of the Senate to the fact that repeatedly Territories that come under this last rule have been admitted to statehood before they had a population equal to the unit of representation.

Nebraska, for instance, was admitted March 1, 1867, when she had a population of only 60,000. The ratio of representation at that time was 127,381. Kansas was admitted January 29, 1861, when she had a population of 107,206, just before, by legal enact-

ment, the ratio was changed from 93,413 to 127,381. She was admitted at a time when a census had been taken, and when everybody knew that a new ratio was to be in the immediate future determined upon that would be higher than her popula-

tion would reach or equal.

Florida was admitted March 3, 1845, when she had a population of 54,477, and when the ratio was 70,680. Oregon was admitted February 14, 1859, with a population of 52,465, when the ratio was 93,423. Nevada was admitted October 31, 1864, with a population of 6.857, when the ratio was 127,381; and Congress, in both Houses, by a large majority, passed a bill in 1866 admitting Colorado to statehood when she had a population of only 30,000, or less than 30,000, and when the ratio was 127,381.

Mr. HALE. Mr. President— The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Maine?

Mr. FORAKER. Certainly.

Mr. HALE. Let me ask the Senator if he does not recognize a very important distinction between the cases where States have been admitted with a population less than the unit of representation, but where the then growth and the assured future of such proposed States to a much larger population was certain, and States like Nevada, which gave no promise of ever possessing

population enough to entitle them to admission?

I do not think anybody can say anything in the Nevada case nor in any of the cases where not only was the population small, not intrinsically large enough for admission on the unit rule, but where there was no prospect of there ever containing such a population; but it seems to me that does not apply either to the States of which the Senator is speaking or to the older cases of admission of Indiana and Ohio and Illinois, where it was a moral certainty they were speedily to contain population enough to make them great commonwealths. Does not the Senator see any distinction between that class of cases and cases like that of Nevada?

Mr. FORAKER. Mr. President, I am very much obliged to the Senator from Maine for interrupting me to ask those questions and to make the points which he has made. Presently I shall come to discuss precisely what he has precipitated. I am undertaking at the present moment to show only this, that, in accordance with the rule for which I have been contending, it is at all times within the discretion of Congress to say whether or not a Territory with less than the unit of representation shall be ad-

mitted to statehood.

No doubt. Mr. HALE.

Mr. FORAKER. The Senator concedes it. That being true, Mr. President, and that being the rule for which I have contended, I was simply undertaking to show that precedents sustain the rule for which I was contending; that Congress has done that thing. Congress did it in the case of Nebraska, in the case of Kansas, in the case of Nevada, in the case of Oregon, and in all the other cases I have recited. Congress in doing it exercised its discretion. Now, what I am going to contend for is that those were, in the opinion of Congress, proper cases in which to admit before the population equaled the unit of representation. So, too, is Arizona a case where it is proper for Congress to admit, in the discretion of Congress, before the population reaches the unit of representation.

Mr. BEVERIDGE. Will the Senator permit a brief interruption?

Mr. FORAKER. Certainly.

Mr. BEVERIDGE. Mr. President, the point, as I understand it, which was made by the Senator from Maine [Mr. Hale], was that the action cited by the Senator from Ohio, where there had been admission before the population was as great as the unit of representation, was in anticipation of an immediate large population, which even then was flowing in. An examination of the figures which I have, in common with the Senator from Ohio [Mr. Foraker] before me, shows that to be the case, as, for instance, in the case of Nebraska, which was admitted March 1, 1867; the next census, three years later, gave it a population of 122,993; and Colorado, which was admitted in 1867, at the next census had a population of 194,327; and Indiana, which was admitted, as the Senator says, with even a less population than 60,000—

Mr. FORAKER. No; with more than 60,000.

Mr. BEVERIDGE. Well, with something in the neighborhood of 60,000.

Mr. FORAKER. Indiana had 63,000.

Mr. BEVERIDGE. Yes; and at the next census, four years later, the population was 147,178. So we might run through those States whose then present conditions were such as to guarantee, not as a matter of speculation, but as a matter of absolute certainty, that the population would immediately be above anything the rule required, because of the physical conditions, the fertility of the soil, the nature of the rainfall, the well watering of the Territory, etc.; in other words, conditions which attracted and invited a large population.

Mr. FORAKER. Mr. President, I do not object to these interruptions, but I take it as not at all complimentary to me for Senators to assume that I did not think of all these things, and did not intend to meet these very suggestions. I was coming to

them

Mr. BEVERIDGE. I mean always, so far as I am able, to compliment the Senator, because I think he always deserves it, ex-

cept as to his attitude in this particular case.

Mr. FORAKER. Mr. President, as I remarked a moment ago, in reply to the interruption of the Senator from Maine—I had been, up to that point, simply contending for the rule, and I have not heard of anybody conceding the rule that I have been contending for—I had been contending that the precedents and the authorities show that Congress has the right to admit before the unit of representation is reached by the population of a Territory, and that there is an obligation—perhaps it is only moral in this case, but legal in others—to admit when the population does equal the unit of representation. Then, having pointed out the precedents on this point I relied on. I was proceeding to make application of these rules to the Territories now under consideration. The Territory of New Mexico comes under another rule. But let me dispose of New Mexico first. The last census showed the population of New Mexico amounted to 195,301, and the ratio of representation is 193,000.

Mr. BEVERIDGE. One hundred and ninety-four thousand

and some odd hundreds.

Mr. FORAKER. I thought it was 193,000.

Mr. BEVERIDGE. No.

Mr. FORAKER. But whatever it may be, the ratio of representation is less than the population of New Mexico according to the last census.

Mr. BEVERIDGE. A few hundred.

Mr. FORAKER. So that so far as New Mexico is concerned we are not called upon to exercise such discretion as we might feel bound to exercise if she had a population less than the ratio of representation. I call attention to the case of New Mexico, which is not only now above the ratio of representation, but the ratio of representation will remain fixed for the next ten years; there will be no change in the ratio until 1911. In the meanwhile New Mexico will be growing. Her population is greater than the ratio now, and ten years from now, or previous to ten years, I may say, her population will be far beyond the ratio of representation.

The Senator from Maine [Mr. Hale] asked if I did not draw a distinction between Territories which promise an immediate increase of population and Territories which do not. Certainly I do, Mr. President. I recognize that Nebraska, Ohio, Indiana, Illinois, Wisconsin, and Minnesota were Territories that everybody knew would fill up rapidly: settlements had been established, the population was increasing, and everyone could foresee that there would be a rapid and very great increase, just as there has been. But who knows, Mr. President, that a like result will not

follow in New Mexico?

I want to separate the two Territories for a moment. What has been happening in New Mexico? I pointed out the other day that the Territory is complained of because the population has not rapidly grown, and yet in the speeches that we have heard that complaint of the Territory made we have been told that they have unusual conditions, not only of nature, but of other kinds. They had for years, and until quite recently, savage bands of Indians roaming over their territory. Who was going down into that country where there was no protection by the Army, when he could go with the tide of population into other Territories where the people were protected and where they could be safe from harm of that nature? But a more difficult trouble in New Mexico even than the Indians was in the fact that the best lands of New Mexico were all clouded as to their titles by the Spanish land grants—Spanish land grants involving clouded titles to nearly 30,000,000 acres, as I find by reference to the record since I was speaking here a day or two ago.

Immediately after we acquired New Mexico we ought to have established what we waited until 1891 to establish—and established then only under compulsion, as it were—namely, a Private Land Claims Court, into which these titles could be carried for adjudication and settlement. Until 1891 no homesteader could go and settle on any land and preempt it with any assurance that he could get title; no man could go there with his savings and invest them in lands with any assurance that he would get title. The Spanish land grants overlapped and duplicated each other and had extravagant, exaggerated, and unknowable boundaries, until the whole subject of land grants was in such doubt and in such difficulty that nobody would undertake to get a home there.

In 1891 the pressure had become so great from people who had gone there, notwithstanding the difficulties, and from other people who wanted to go, but were deterred by the conditions there existing, that Congress yielded to the demand that was made and provided the Private Land Claims Court. Their final report shows that they have settled titles to over 20,000,000 acres of the best lands in New Mexico, and have turned that amount of good land back into the public domain, where it is now subject to

homestead entry.

What is the consequence? I read to you the other day the report of the various land offices in New Mexico-four of them altogether—and every one of them gave us an account that shows the greatest activity on the part of homestead preemptors who are going into New Mexico and making homestead entries of land. In one office 205 of these entries were made in the month of December last alone. What does that indicate, Mr. President? To my mind it is no surprise that the population of New Mexico has not increased more rapidly, but it is a surprise that her population has increased as it has increased. Let me call your attention to it, Mr. President, and you will see that the population of New Mexico has, according to percentages, about kept pace, notwithstanding all these difficulties, with the general population of the country.

According to the census of 1870, they had in New Mexico a population of 91,874; in 1880 it had increased to 119,565; in 1890 to 153,593; in 1900 to 195,310; and it is claimed—and upon what seems to me very plausible, not to say very good, grounds—that the census shows a much less population than they really had. I want to refer to only one fact in that connection, which seems to

me to justify that claim and conclusion.

In the Territory of New Mexico last year the number of registered voters was 63,769. Every man here knows that in our most populous cities, and even in our country districts, we never have a full registration and never have a full casting of the vote which is registered. If they had 63,769 registered voters in New Mexico at the last election, it is perfectly safe to assume, Mr. President, that they had 75,000 voters who had a right to register; but there the discrepancy between those registered and those entitled to be registered would be much larger than it would be here.

The election in New Mexico was not an exciting one, and therefore when we remember the character of the country which has been described to us, the long distances, the kinds of occupation of the men scattered over those vast plains, herding stock, mining, etc., the trouble that it was to them to go these long distances to register, and afterwards to vote, we can safely assume that the percentage would be larger that did not register and did not vote than it would be with us. A fair allowance for all this indicates that there were at least 75,000 voters in New Mexico entitled to register. But if there were 75,000 voters it is safe, I suppose, to assume that there were four people to every voter.

Mr. HALE. Does the Senator think that would apply in a

frontier Territory?

Mr. FORAKER. I do; because the census shows that it would in all probability apply there.

Mr. HALE. I think the Senator must——

Mr. FORAKER. The Senator forgets, if he will allow me, that a large part of this population—I am coming to that presently—is a Mexican population, and that they have an unusually large number of children in their families.

Mr. HALE. I was going to call the attention of the Senator because that is one feature of the opposition—to the fact that it is not the kind of population that will assimilate into a State. And is it not undoubtedly true, so far as the white population is concerned in any frontier border, new State, the percentage of men is much larger than it is in the old States; and that having a population of 10,000 in any of those States does not in any way represent such a population as a voting population of 10,000 does in the older States, the reasons for which are, I think, apparent?

Mr. FORAKER. I appreciate what the Senator has suggested, and I want to say in answer to that that in the first place the general rule is five people to every voter. That is the rule by which we estimate population based on the vote here in this part of the country and the part of the country where I live, but to give a margin, for the very reason which the Senator has suggested, my estimate is four for every voter, which would make a

population at this time of 300,000.

But the Senator will find, if he will study the statistics of the census returns as I have studied them, that there is no reason why we should give any margin at all. There was a time, when the Indians were running about over the plains of New Mexico, when life was constantly in danger, that men greatly predominated in point of numbers, and a different rule in computing the population based on the vote would have to be observed at

that time from what would be observed now.

But, Mr. President, I do not intend to rest this case upon the proposition that there is a greater number of people in New Mexico than the census shows there are. There is a natural increase since the census was taken. That was, now, nearly three years ago. There has been, I suppose, the average rate of growth during these last three years. I presume that will be conceded. But, Mr. President, the growth has been far greater in proporportion during the last three years than it was during any three years of the preceding decade, which has been due to the causes Ireferred to a moment ago, the land titles being settled, etc. With the natural increase New Mexico now has a population of, perhaps, \$25,000 or \$230,000. That is not far out of the way, assuming that the census is accurate; and that is sufficient for all purposes.

Having that kind of a population and there being seven or eight years yet to run before the ratio will be changed, the population of New Mexico is abundantly large enough to entitle her to admission, and therefore I say it is a moral right, on her part at

least, that she be admitted to statehood.

I shall speak of the character of the people of New Mexico presently. For the present I want to speak of Arizona. There the case is different. Arizona had, according to the last census, only 122,931 population. I want to sayagain, Mr. President, that I do not believe the census return is accurate there, as I will show presently, but I am willing to accept it as it has been made. I have a right to go further than to say that I do not believe it is

accurate. I know that it is inaccurate.

The Senator from Minnesota [Mr. Nelson] the other day in his speech demonstrated that fact conclusively as to the Indians. He showed to us conclusively that the enumerator of the census, in undertaking to count 30,000 Indians penned up in the reservations, missed, in round numbers, about 5,000. If the enumerators missed 5,000 in undertaking to count 30,000 under such circumstances, we certainly have a right to assume that they missed somebody when they were counting 100,000 other people scat-

tered over that vast domain of territory, embracing people engaged in herding out on the plains, people engaged in the mills.

and people working down in the mines.

I am told, it is not an official fact, and perhaps I should not refer to it, but my informant is a man so situated that he knows from personal knowledge, and he tells me that in one of the mining towns of Arizona the total number of people returned by the census enumerator was less than the number of miners working at that very hour down in the mines in that town, as shown by the pay rolls of the operators. I think it is pretty safe to assume, taking the discrepancy in the count of the Indians as a basis, that the census report ought to have been at least 20,000 more instead of what is recorded.

Mr. BEVERIDGE. Will the Senator tell me to what mine he

refers?

Mr. FORAKER. I can not now, but I shall take great pleasure in giving it to the Senator later.

Mr. BEVERIDGE. Thank you.

Mr. FORAKER. Those names are not familiar to me and I did not charge my memory with them, but I think it was Bisbee. [Mr. Smith, Delegate from Arizona, indicated that he was the authority.] Now, the Senator knows my authority, and I observe that the Senator from Idaho is also coming to my rescue.

Mr. DUBOIS. If the Senator will allow me, and I know he has this information, I will make the suggestion that the population of Wyoming in 1890 was 60,705, and the population of Wyoming in 1900 was 92,531. The Congressional apportionment in

1893 was 173,901. Wyoming was admitted in 1890.

The population of Idaho in 1890 was 84,385, and in 1900 it was

161,772, the Congressional apportionment being 173,901.

Mr. FORAKER. I am very much obliged to the Senator from Idaho for giving me that information. My examination of the statistics was necessarily hurried, having so many other things to do, and I had not observed the figures as to those States. I supposed that I had called attention to all the States that had been admitted with a population less than the unit of representation.

Mr. DUBOIS. I understand that nine years after admission neither State came near having what the Congressional appor-

tionment required, and Wyoming was very far from it.

Mr. FORAKER. Yes.

Mr. CARMACK. The point of the Senator is that the State grew very rapidly in population after admission to statehood.

Mr. FORAKER. Yes.

Mr. BEVERIDGE. That is not his point. He will make that

point, but that is not the point in this instance.

Mr. FORAKER. I will make that point presently, and when I do the answer will be that Congress simply made a mistake about it: that is, that Congress never would have admitted these States if it had not supposed that immediately after admission they would rapidly grow in population and come to be great, powerful commonwealths such as our States ought to be, except for other reasons.

Not only in the cases mentioned by the Senator from Idaho, but in a number of other cases there has been the same kind of disappointment. The truth is that when the admission to statehood was hurried for the States of Nebraska, Kansas, Colorado, and other States of the Far West, the men who then had a ma-

jority in the two Houses of Congress had something more in their minds than the subsequent growth of population. They knew, of course, that population would grow, but those States were admitted during and just after the war. You will remember that there was an attempt to admit Colorado, as I said a while ago, when she had a population of only 30,000, and when the ratio

was a hundred thousand and something more.

I have forgotten what it was at that time, but it was beyond There was no pretense that it was equal to the unit of representation. The idea was to get States into the Union that would support the policies of the Government which were then being carried out. It was a policy with which I fully sympathized. I believed in the policies of the party then in power, and I believed that they should strengthen themselves by taking into statehood the Territories that were then admitted to statehood.

I believed it and indorsed it, and I thought that Congress had acted within its discretion, because in the judgment of the Congress it was essential to the general public welfare that those Territories should be then admitted to statehood. They were doing just what I propose to insist we have a right to do in our judgment and discretion now. It was a great national emergency that hurried up the admission of those Territories to statehood. There is no such emergency as that upon us at this time, but the rule is not different on that account. It is for the Congress to determine now as then.

Mr. HALE. Mr. President, I think as a matter of political history the Senator from Ohio is wrong in reference to the admission of Kansas and Nebraska. I think it is true with reference

to the admission of Nevada.

Mr. FORAKER. And Colorado. Mr. BEVERIDGE. That was a war measure, practically.

Mr. HALE. It was a measure never justified, accompanied by what may be called political scandal, and I hold utterly inexcusable. I do not agree with the Senator that there was justification for it, even in conditions. I think it was the intrusion into the great family of States of a Territory that neither then nor afterwards ever justified its admission. I think, also, that the separation of West Virginia from Virginia was a measure not justified; that it was an emergency—an emergency which afterwards came back to trouble us.

I should like to see the Senate now take the conservative attitude and not admit any more States that do not promise in the near future to become real, alive, growing, great Commonwealths. I do not apologize for the admission of the State of Nevada; it was as bad as it could be; it never ought to have been done, and it can not be justified, and the secret history of the transaction is a wrong one. The admission of that State does not

redound to the credit of anyone who was engaged in it.

Mr. FORAKER. The Senator from Maine, when he interrupts, always throws light on a discussion, and he is therefore always a welcome interrupter, but at the same time he did not comprehend with exact correctness the remark I made. What I said was that I was in sympathy with the policy the party in power was pursuing when it was undertaking to strengthen itself by the admission of these new States. What I was contending for-that being only a side remark—was that the Congress exercised that discretion because in the judgement of the Congress at that time it was for the public welfare to admit those Territories to organized

statehood.

They were simply exercising this power of discretion. They did not admit Nevada, they did not admit Colorado, they did not admit a number of these other States, on the theory that they were going shortly to grow so tremendously in population that they would be substantially equal to the great States of Vermont and New Hampshire and Rhode Island and Delaware. [Laughter.] I do not mean Delaware, but only the other States that are leading in this opposition. Delaware will be represented here after a while I suppose, and when she does come. I expect her to throw up her hands in holy horror against the outrage on the great States of the Union of admitting Arizona and New Mexico to statehood as proposed. She has 184,000 population, less than New Mexico, and probably not any more, on a fair count, than they have in Arizona, in my opinion.

Mr. BEVERIDGE. How many people does the Senator from

Ohio think there are in Arizona?

Mr. FORAKER. If I could be let alone a little while I would tell. I started on a calculation——

Mr. BEVERIDGE. I do not desire to interrupt the Senator if

he does not wish to be interrupted.

Mr. FORAKER, Oh, Mr. President, I do not care how much the Senator interrupts me. Of course, I expect it to be a polite interruption, as it always is, when it comes from the Senator from Indiana, but I was just in the midst of a computation when the Senator from Maine interrupted me, and having answered him, I was just taking it up again when the Senator from Indiana interrupted.

Mr. BEVERIDGE. I could not possibly, from anything the Senator had said, have foreseen that, because the Senator had just said, before I had interrupted him, that by fair count Arizona had as many people as Delaware has now, which is a hundred

and eighty-seven thousand and some,

Mr. FORAKER. A hundred and eighty-four thousand.

Mr. BEVERIDGE. Then I asked him what population he thought Arizona has.

Mr. FORAKER. And I answered the Senator by saying that if he would only let me alone a little while I would tell him.

Mr. BEVERÎDGE. I will let him alone until he does tell me, and then I shall interrupt him for a moment, provided he makes

the estimate which I think he will.

Mr. FORAKER. The census shows that they had 122,931. The Senator from Minnesota has established the fact that there was a discrepancy of nearly 5,000 in the count of Indians. They missed that many in trying to count a lot of Indians penned up on the reservations. If they missed 5,000 in undertaking to count 30,000 under such circumstances, I assume that they would miss quite a number in undertaking to count a hundred thousand scattered all over that vast domain of territory and engaged in all kinds of occupations—men in factories, men in mills, men in mines, who are working hundreds and perhaps more than hundreds of feet under the ground.

I do not believe they got everybody, and if they failed to get all in one place, I think we have a fair right to assume that they did not get everybody in other places. So I would add 20,000 as conservative to the return of the enumerators as my estimate of

the number of people there at the time when the enumeration was taken, thus making a hundred and forty-two thousand.

It is now three years since that census was taken. From 1890 to 1900, according to the census, they doubled their population. That is something I want to call to the attention of the Senator from Maine. Has the Senator from Maine examined the census statistics? If so, why does he talk about Arizona being a Terri-

tory that is without any promise of future growth?

Mr. President, the Territory of Arizona had, according to the census of 1890, only 59,000 people in round numbers. According to this census she has a population of 122,000; and I do not think all were counted. But all might not have been counted before. Assuming that the census was right in both instances, what is the result? The population has grown more than 100 per cent in ten years. How much would the Senator from Maine expect a population to grow in ten years to give a promise of growth in the ten years to come? Is there that growth in Maine? Is there that growth in Delaware? Is there that growth in Vermont, or New Hampshire, or Rhode Island, or Indiana? There is no such growth anywhere in the United States as there has been in the Territory of Arizona. Yet Senators stand here and tell us, as the Senator from Minnesota did the other day, that he objects to the admission of this Territory to the Union on many grounds, but principally because of the stagnant conditions there.

The 122,000 people, in which number the Indians referred to are regarded as included always, are doing a business in that Territory which, according to the figures given by the Senator from Vermont, show an annual output of products—agricultural, mining, and manufacturing—amounting to \$33,000,000 and more. Are there any 100,000 people anywhere in the United States, situated anything like the 100,000 people there are, doing anything

like so well?

Can you point to any community where there is such activity, where there is such promise of future growth. For all the official and other reports that come to us from that country are to the effect that the great mining interests are but commencing to be developed. With the new processes for treating ores and the new facilities for mining them, they are rapidly increasing the output of the mines they have, and in the meanwhile they are rapidly multiplying the mines they have heretofore had.

So. Mr. President, while there is no great national emergency which would justify our admitting a Territory with a population less than the unit of representation, as there was thought to be by the Congress that admitted the Territories about which we have been talking, yet there is this promise of future growth to justify it, which was the only justification in the case of Ohio, and the only justification in the case of Illinois, when those two

States were admitted with less than 60,000.

This ratio, as I have said, is to continue until 1911. It has seven or eight years yet to run. In Arizona they have, I believe, at this time a population equal, if it had been fairly counted, judging from the election returns and from other sources of information, and from the testimony given before the committee, almost equal to the ratio. But whether it be greater than I have indicated, 140,000 or 150,000, it is increasing at such a rapid rate—at the rate of 100 per cent in ten years, at the rate of 10 per cent annually—that long before there is another ratio fixed by Con-

gress the population of Arizona will be far above and beyond the

present unit of representation.

These are not fanciful visions of the future. They are based on the conditions now existing, only recently established as they exist, which are conducive to the inflow of population and to the development of the industry and to the multiplication in every way of that which is important in that Territory.

But, Mr. President, who knows that that Territory will not be teeming with population in a few years to come? This is not the first time we have heard in the Senate Chamber great statesmen proclaim that this and that particular section of the country had

no promise of future growth and development.

This is not the first time that great sections of our country have been pronounced valueless. When we acquired the Louisiana Purchase there were some statesmen who did not appreciate the worth of that purchase. When we came to establish the State of Louisiana there was one statesman in particular whose words I want to read. Mr. Josiah Quincy, representing the State of Massachusetts, said on that occasion some things to which I want to call attention. Mr. Quincy was an honest, upright man with a badly mistaken opinion. I quote from a descriptive account of his speech on that occasion:

Mr. Quincy then went on to prove that not only had no power been given to Congress to admit States out of the original bounds, but that the idea of so doing had not even occurred to the framers of the Constitution. They were not madmen. They had not taken degrees at the hospital of idiocy. "Thave heard," said he, "of six States, and some say more, that will surely be formed beyond the Mississippi. It has even been said that the day is coming when the mouth of the Ohio will be far to the east of the center of empire. It is impossible such a power could be granted. It was not for these men that our fathers fought. It was not for them the Constitution was adopted. You have no right," he argued, "to throw the liberties and property of this people into hotchpotch with the wild men on the Missouri, nor with the mixed, though more respectable, race of Anglo-Hispano-Gallo-Americans who bask on the sands at the mouth of the Mississippi."

This reads like an extract from the speech of the Senator from Minnesota:

"Do you suppose"-

He continued-

"Do you suppose the people of the Northern and Atlantic States will or ought to look with patience and see Representatives and Senators from the Red River and Missouri pouring themselves on this and the other floor, managing the affairs of a seaboard 1,500 miles at least from their residence?"

Perish the thought! What a calamity it would be to the interests of the State of Massachusetts if there were to come to Washington, representing independent commonwealths, men who would have a right to a voice in legislation regulating the affairs of the seaboard, 1,500 miles away from their homes!

The bill, he asserted, if it passes, is a deathblow to the Constitution. It is my deliberate opinion that if this bill passes the bonds of this Union are virtually dissolved.

That is how serious it was to him. Yet he was an honest man, he was a sincere man, he was an able man, he was a patriotic man, he was conscientiously performing his duty as he saw his duty. The trouble was with his light. He did not have a good vision. I read this, Mr. President, to show how greatly men may be mistaken. Mr. Quincy was mistaken.

Now I call attention to another case. When it was undertaken to establish a Territorial government for Oregon, a great debate arose in the Congress of the United States. There were men who did not think Oregon was worth enough to the United States of America to warrant us in establishing a Territorial government there. Let me read what was said in that debate by Mr. Bates, from Missouri:

"Now, what will be the consequences," said a member from Missouri, "supposing we pass this bill and give a social existence to the country? Consider where the region is. From the Atlantic to the Missouri is 1,300 miles."

Just think of it! Thirteen hundred miles!

"From the mouth of the Missouri to the head of navigation is 2,500 more. Then there is the rugged and almost impassable belt of the Rocky Mountains, while between the Missouri and the Pacific, save a strip of culturable prairie not above two or three hundred miles wide, the region is waste and sterile, no better than the Desert of Sahara and quite as dangerous to cross. Near the mountains the country is composed of rocky and stony ridges, dotted with spots giving life to nothing but the spruce, the hemlock, and trees of that description."

I will omit a part of what is reported here and go to the last sentence or two:

"But suppose the object of this bill accomplished. Suppose the infant settlement, fostered by the paternal care of Government, has grown into a vigorous maturity. Does any man imagine that a brotherhood of affection, a community of interest, could bind that distant and solitary member of the family in the far West to those held together by the firmest of political ties in the East? The very name of the place is expressive of its poverty and sterllity, for it comes from 'oregano,' a word applied by the Spaniards to an herb resembling pennyroyal and growing near the coast."

That was the estimate of that Representative as to the Oregon country. He was not alone. I am reading from the fifth volume of McMaster's History of the People of the United States, at pages 480 and 481. Quite a number of the members of the House and Senate are quoted from to the same effect. There were others who took a different view, but so overwhelming in the Congress of the United States was the sentiment that Oregon was not worth enough to justify providing a Territorial government that the bill was not allowed to go to a third reading, but was rejected, which was the equivalent of voting it down. At any rate, no government was established for Oregon at that time.

Mr. President, all Senators are familiar with the fact that when we yielded to the contention of Great Britain and agreed that our Northern boundary line in the Oregon country should be at the forty-ninth degree of north latitude instead of "54.40 or fight," it was done largely because such distinguished statesmen as Daniel Webster were of the opinion that the Oregon country was so valueless that it was not worth having a controversy about, and thus through the entertainment of that kind of an opinion by such representative and strong and capable statesmen of this country British Columbia was lost to us, and as a consequence Great Britain interposes now with a coast line extending from the northwestern corner of Washington to our possessions in Alaska.

That is not all. I have before me a book entitled "The Works of Daniel Webster." I read from volume 5, at page 398. The Senate of the United States had before it a bill to admit California to statehood. California had held a convention. She had adopted a constitution. She had elected Senators and Representatives, and the question was whether or not they should be recognized by the Congress of the United States and her Representatives be given seats.

The constitution as it had been framed was objected to by Senators from the South on the ground—it was before the war time, you will remember—that the constitution provided that there

should be no slavery in California. It was pointed out that by the Missouri Compromise of 1820 there was to be slavery, if the people so desired, south of 36° 30' north latitude. They were being denied the right to have slavery in California when they thought they were entitled to it. Mr. Webster, in answering that argument, undertook to satisfy the people of the South that in yielding and accepting the constitution of California, which prohibited slavery in lower as well as in northern California, they were not yielding anything of value, and here are his reasons. After making a great many points in his argument, he said:

Then there is another consideration. If you separate south California from north California, what will be the value of south California by itself? Why, look upon the map and the question will be answered. Suppose we run the line to 36° 30′ from the sea across to New Mexico, what have you? You have mountains and you have those vast tracts of land east of the mountains; but from the best information I can obtain—and I have consulted what I suppose everyone concedes is the best authority—there can not beat most within what would constitue the territory of south California

more than 5,000 square miles of good land?

Beyond that all is desert lands and mountains. I speak now of lands that may be tilled and cultivated. We must, as I have said, look at climate as well as the surface of the land. Gentlemen will please to remember that in well as the suitace of the latter. Generally will peak the state and this part of California eight months in every year roll on without a drop of rain falling, and there is not within the whole of it any land whatever that can be cultivated without irrigation. So small are the streams, when you depart from those two rivers, the Sacramento and the San Joaquin, that

depart from those two rivers, the Sacramento and the San Joaquin, that they do not supply water for the cultivation of the very small portion of the land that otherwise might be made tillable.

What, then, will be the value of this territory? The gentleman from Louisiana contended for the rights of the South in regard to it. Where is there any value in it? Is it anything more than a mere nominal right, if it be that? Can it be of any use whatever? Could the South make any use of that territory, if it were now a Territory and free from any restraint whatever which they can not make of it as part of a State? I think therefore ever, which they can not make of it as part of a State? I think, therefore, that it is a dispute where there is no substantial value in the matter contested.

Now, I want to read some quotations from Congressmen as to another acquisition. In the second volume of Mr. Blaine's work entitled Twenty Years of Congress, at page 335, he gives an historical account of the debate which occurred when the acquisition of the district of Alaska was under consideration. I will not stop to read it, but I will ask that what Mr. Cadwalader C. Washburn, General Butler, and Mr. Peters said on that occasion may be inserted in the Record as I shall mark the extracts. I ask that privilege in order that I may not unduly take the time of the Senate.

Mr. Cadwalader C. Washburn answered the speech of General Banks on the succeeding day (July 1, 1868). He assumed the leadership of the opposition to the treaty. He proposed to demonstrate to the satisfaction of the House five distinct propositions: "First, that at the time the treaty for Alaska was negotiated not a soul in the whole United States asked for it; second, that it was secretly negotiated, and in a manner to prevent the representatives of the people from being heard; third, that by existing treaties we posses; every right that is of any value to us without the responsibility and never-ending expense of governing a nation of savages; fourth, that the country ceded is absolutely without value; fifth, that it is the right and duty of the House to inquire into the treaty, and to vote or not vote the money, according to its best judgment." Mr. Washburn made an able speech in support of his radical propositions.

General Butler sustained Mr. Washburn's position in a characteristic speech, especially answering General Banks's argument that we should pay this amount from a spirit of friendship for Russia. "If," said General Butler, "we are to pay this price as usury on the friendship of Russia, we are paying for it very dear indeed. If we are to pay for her friendship, I desire to give her the \$7,200.000 in cash and let her keep Alaska, because I think it may be a small sum to give for the friendship if we could only get rid of the land, or rather, the ice which we are to get by paying for it." He maintained that it was in evidence before the House officially "that for ten years the entire product of the whole country of Alaska did not exceed \$3,000,000." Mr. Cadwalader C. Washburn answered the speech of General Banks on

Mr. Peters of Maine pronounced the territory "intrinsically valueless, the conclusive proof of which is found in the fact that Russia is willing to sell it." He criticised the action of the Senate in negotiating the treaty. "If the treaty-making power can buy, they can sell. If they can buy land with money, they can buy money with land. If they can buy a part of a country, they can buy the whole of a country. If they can sell a part of our country, they can sell the whole of it!"

What they contended for was that Alaska was without any value whatever. Not very many years have since passed, but time enough has elapsed to establish of what incalculable value to the people of the United States is the acquisition of Alaska.

Nobody would think of surrendering it to-day.

Mr. President, I have gone to the trouble to read these authorities, anticipating somewhat the course of my argument in doing so, in order that I might answer the Senator from Maine [Mr. HALE], whose contention seems to be that we ought not to exercise our discretion in favor of Arizona, she being below the mark of the unit of representation, because there is no future for Arizona. These citations show how statesmen may be mistaken as to the future development of a country or section. I have already pointed out that the population of Arizona has doubled, and more than doubled, during the last ten years.

If it doubles during the next ten years, and there is no reason that I know of why it should not, she will have a population of 250,000 people, according to the census alone. That looks to me like promise. It is a vast, magnificent domain. They have manufacturing, they have mining, they have stock raising. They are an active, busy, energetic people. They are an important part of this country by reason of that which they contribute to her general welfare, and they are entitled, Mr. President, if we exercise a sound discretion, to our favorable consideration of their claim.

Now, I want to insist why I think they ought to come in as a State. They have been under Territorial government ever since 1863, and New Mexico ever since 1851. It is true that these two Territories are only a part of our acquisition from Mexico as the result of the Mexican war: that out of that acquisition were created first the Territories of Utah and Nevada and afterwards the States of Utah and Nevada. To that extent we have redeemed our obligation to admit the inhabitants of the ceded territory to statehood.

But, Mr. President, we can not excuse ourselves from admitting the rest of that Territory, and the rest of the inhabitants residing there, to statehood on the ground that we have admitted a part; that we have done a part of that which we have agreed to do. It was our promise and stipulation in the treaty with Mexico that we would admit all of the inhabitants of that Territory to statehood.

We have admitted a part. We have delayed fifty years and more to act as to New Mexico and Arizona. We created these Territories, we carved them out of that general territory, and we told them to wait a while. They have waited long enough.

In New Mexico and Arizona they have had unnatural conditions to contend with. Both these Territories have now reached a point where they have a splendid population and where they have done things which give promise that they will be a credit as Commonwealths of this Union to the whole country if we admit them to statehood.

I now call attention to their school system. This does not look like a stagnant community. It does not look like an idle and an indifferent community. The school population of New Mexico in 1901, according to the statistics, was 62,864. The enrollment of

pupils in all schools was 42,925.

The Senator from Minnesota [Mr. Nelson] called attention to the fact that not all the school population is in attendance upon the schools. Not all the school population is in attendance upon the schools in any State of this Union. The testimony discloses that these Mexican young men, as a rule, because of the poor circumstances into which they are born, quit the schools when they are 16 or 17 years of age. They are still a part of the school population, but, just like young men so situated in other communities. they guit school when the necessities of the family to which they belong require that they should, and as soon as they are able to help make a living. They are not all studying to be lawyers, with the hope in their breasts that they will at some time occupy seats in the Senate of the United States, and therefore they cut their education a little bit short.

This table goes on to show that they have 1.046 teachers; that they have 726 schools, and the annual receipts for school purposes—money that they tax themselves for and pay—amounts to \$838,018.70, and they expended last year \$723,048.32. They have school property, which they have acquired and paid for by taxing themselves, to the value of \$2,071,702.25. I ask that this statement may be inserted in the RECORD as a part of my speech. I have commented on it sufficiently to call attention to the salient points of it and to show that the people in the Territory of New Mexico are giving a proper attention to the matter of education, and as a result of it, as some one has already quoted in the progress of this debate, the percentage of illiteracy has been steadily declining until it is now only about one-third what it was ten or twelve years ago. That is the kind of promise they are giving.

The statement referred to is as follows:

NEW MEXICO SCHOOL SUMMARY, STATISTICS FOR SCHOOL YEAR 1900-1901. School population, 62,864; increase over previous year, 9,856, or 18.6 per

Enrollment of pupils in all schools, 42,925; average daily attendance, 29,825. Number of teachers employed, 1,046; number of schools, 726.

Annual receipts, \$838,018.70; annual expenditures, \$723,048.32. Value of all school property in New Mexico, \$2,071,702.25. Enrollment in public schools proper: Year 1899, 21,761; year 1900, 31,510;

year 1901, 35,227.

Enrolled in city schools, 7,243; enrolled in rural schools, 27,984; enrolled in Territorial institutions, 907.

Expended in improvements on public school property during year, \$242,617.60.

Present value of public school property, \$1,239.153.25.

Average annual cost of educating children in the schools, per capita, \$4.94. Average annual cost of educating pupils enrolled in Territorial institutions, per capita, \$159.66.

Mr. FORAKER. The Senator from Minnesota told us the other day that all their proceedings in the legislature were conducted in the Spanish language, and the court records, I understood him to say, were also in the Spanish language. I have before me here a statement from which I want to read, and I ask that it may all be incorporated in the RECORD. It is a statement prepared by Hon. B. S. Rodey, the Delegate in the House of Representatives from New Mexico. Mr. Rodey says:

EXPLANATION AS TO THE USE OF INTERPRETERS IN THE COURTS, CONVEN-TIONS, AND LEGISLATURES OF NEW MEXICO.

Legislature.—There has been little or no need of an interpreter in the leg islative assemblies of New Mexico for about ten years last past, as every member of both houses could understand and speak English reasonably well.

Such an officer was employed though, because the organic act of the Territhere was employed though, because the organic act of the Territory provides for the office, and attaches a good salary to it, and therefore there were always applicants for the place, and sometimes interpretations took place as much for the benefit of the spectators as otherwise, some of the latter not understanding English well.

There will be needed for interesting the place of the spectators as otherwise, some of the latter not understanding English well.

There will be no need of an interpreter in the coming legislative assembly, the members for which are now elected. The council (senate) is unanimously Republican, all are scholars of a high order, and a short description

of the personnel thereof is as follows:

Now, I call the attention of the Senate to the character of the men who constitute the senate in the Territorial legislature of New Mexico. As I read this description of the men, you will see whether or not there is any justification for that which has been said in criticism of the people of that Territory so far as their legislature is concerned.

Col. J. F. Chaves: Present superintendent of education; late colonel New Mexico Volunteers during civil war; member G. A. R.; Delegate several times from New Mexico to Congress of United States; a linguist and scholar of very high attainments, and one of the best parliamentarians in the nation;

Thomas Hughes: A scholar of fine attainments: publisher and editor of the Daily Citizen, of Albuquerque, N. Mex. a newspaper of almost metropolitan proportions, work on it set up with linotype machines; a man of large experience as a legislator; a resident of New Mexico for more than twenty

years.

George F. Albright: A scholar of high attainments: publisher and editor of The Daily Journal-Democrat, of Albuquerque, N. Mex., also a newspaper of almost metropolitan preportions, using linotype in its preparation; formerly of Missouri; has resided in New Mexico more than twenty years.

W. H. Andrews: Miner and railroad builder; formerly of Pennsylvania; one of our most enterprising citizens; a man well versed in statecraft and

one of our most enterprising citizens, a man wen verset in state rather politics generally; late a State senator of Pennsylvania; resident of New Mexico past eight years.

C. A. Spiess: A lawyer of considerable attainments; present district attor-

ney for fifth district of New Mexico; formerly an educator; a man of large experience as a legislator; has lived in New Mexico about twelve years.

James S Duncan: A railroad and irrigation contractor and builder; a man

of vast experience and high attainments generally; has lived in New Mexico about eighteen years.

Albert B. Fall: Late associate justice of the supreme court of New Mex-

ico; a lawyer of high attainments and large experience; late a captain in the

Rough Riders

. A. Hawkins: A lawyer of exceptionally high standing; represents some of the largest interests in the Southwest.

M. Martinez: Ranchman and stock raiser; a good scholar and linguist; has had large experience as a legislator; a native of New Mexico.

V. Jaramillo: Ranchman and stock raiser; a young man of education and high social attainments; graduate of Notre Dame College, Indiana; a native of New Mexico.

of New Mexico.

Amado Chaves: A native of New Mexico; ranchman and stock raiser; late Territorial superintendent of education; late mayor of the city of Santa Fe; a scholar of a very high order and large experience as a legislator. Saturnino Pinard: A native of New Mexico; linguist and scholar of considerable attainments: a man who has been prominent in his section of the Territory for many years, having held many official positions. As to the house, it stands 2! Republicans to 3 Democrats, the membership and a description of which is as follows: Every one of them speaks English. An interpreter will probably be entirely dispensed with in the coming legislative assembly, and the money therefor covered back into the National Treasury; at least a movement is on foot now to have that done. Treasury; at least a movement is on foot now to have that done.

McIvers.

M. B. Stockton.

C. Sanchez: Speaks English and Spanish well. W. F. McCash.

Antonio Lucero: Teacher in Las Vegas schools; fine English scholar.

Gregorio Gutierres: Fine English scholar. Pedro Romero: Fine English scholar. Celso Baca: Fine English scholar.

William Kirkpatrick

R. L. Baca: Scholar of high order.

Pedro Sanchez: Speaks English moderately. Granville Pendleton.

David Martinez: Good English scholar. Antonio D. Vargas: Good English scholar. Celso Sandoval: Good English scholar.

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Nestor Montoya: Linguist, educator, and editor of high attainments.

Alexander Bowie: Civil engineer.

H. H. Howard: Editor.
W. H. H. Llewellyn: District attorney.
A. W. Pollard.
C. A. Dallies.

Martin Sanchez: Speaks English well.

E. C. Holman.

A. A. Sedillo: An accomplished linguist.

I have read that entire, in order that I may call the attention of the Senate to the fact that they have for the legislative senate in New Mexico a body of men in whom every man knows the interests of that Territory will be safe as legislators—safer, Mr. President, than they can possibly be in our hands, for in order that there may be intelligent and satisfactory legislation there must be not only natural ability, but there must be acquaintance with the subject about which we seek to legislate, and it is not possible for us to have the familiarity about the subjects concerning which they must legislate in New Mexico which the men of the character who are now members of the senate of New Mexico have. They not only compare favorably with the senate of any Territory we have ever had when admitted to statehood, but they compare favorably with the senate of any State in this Union, and I think they would compare favorably with some people who get into Congress.

Now, as to the courts, a great deal has been said to the effect that interpreters must be used in all the courts, and it is sought to create the impression that Spanish is spoken everywhere and that everything is transacted in Spanish. Mr. President, the records of the courts throughout the Territory are kept, not in the Spanish language, but in the English language, and they are nowhere kept more neatly and satisfactorily than they are in the courts of New Mexico. The only place where court records are kept in the Spanish is in the courts of the justices of the peace. There they are kept in both Spanish and English accordingly as the parties interested may be Spanish or English.

I have a statement here furnished by Mr. Rodey to which I wish to call attention. Under the head of "courts," he says:

As to our counties, nine of them-

They have 21 counties in New Mexico all told:

They have 21 counties in New Mexico all told:

Courts.—As to our counties, nine of them, that is, (1) Chaves, (2) Colfax, (3) Eddy, (4) Grant, (5) Luna, (6) McKinley, (7) Otero, (8) San Juan, (9) Sierra, are inhabited by a class of people mostly from the States, so thoroughly American and English speaking as that interpreters are never used at all in the counties, save in rare instances when a witness is called who can not speak English, and then an interpreter is used to interpret his evidence only to the court and jury.

As to six other counties—that is, (10) Bernalillo, (11) Guadalupe, (12) Lincoln, (13) Santa Fe, (14) Socorro. (15) Union—are inhabited about equally by "Americans" and "natives," although the vast majority of them speak English, still interpreters are used about half the time. This would not be necessary were it not for the decided disinclination of the "Americans" to do jury duty. They make all sorts of efforts to avoid such duty, while the "natives," not being otherwise so extensively engaged as the "Americans," like such duty. The result is that in these six counties interpreters are necessary a portion of the time, when if the "Americans," so called, did not make such efforts to avoid their jury duty the necessity for interpreters could be avoided. avoided.

avoided.

As to the other six counties—that is, (16) Donna Ana, (17) Mora, (18) Rio Arriba, (19) San Miguel, (20) Taos, (21) Valencia—the inhabitants are about three-fourths "natives," although a good three-fifths of them speak English well. Still, because of the reasons last above mentioned, that is "Americans" avoiding jury duty, these counties have interpreters all the time in the courts. The "natives" make very good jurors, and no complaint is ever heard from their verdicts.

I will not weary the Senate to read longer, but I shall ask that the whole statement may be incorporated in the RECORD.

The remainder of the paper is as follows:

It will thus be seen that in nine counties of the Territory interpreters are never used as court officials, and in six other counties they are used only a portion of the time, and are only used continuously in six counties.

There is not a single county in New Mexico where, if the court exercised a little care in the selection of the jurrors so as to secure "natives" who speak a little care in the selection of the jurors so as to secure "natives" who speak English, and who are abundant and could easily be procured, it would be necessary to have an interpreter for any purpose other than interpreting evidence of a witness for the court and jurors. The necessity for interpreters is growing less and less every day, and it will be but a few years when the reasons for such an officer will have entirely disappeared.

As above set forth, there is no necessity for one in the legislature at the

present time.

The "hearings" of the subcommittee of the United States Conventions.

Conventions.—The "hearings" of the subcommittee of the United States Senate on Territories with reference to the statehood bill have it that interpreters are necessary in political conventions. That is true, because in such conventions there are often present a number of "natives" who do not understand English very well. The statement of the fact that interpreters are needed in such conventions is misleading, because it conveys the idea that they are necessary in all conventions at all times, which is not true.

Many conventions are held where no interpreters are necessary. Many a time an interpreter is elected and acts because it has been a custom in the country for so many years, when as a matter of fact every delegate and person present can understand English well. The old custom which is prevalent in all political conventions of conferring honors upon people by making them vice-president, assistant secretary, temporary chairman, etc., is enlarged in New Mexico, and very often a politician is given prominence by being elected interpreter when there is no need of his services.

interpreter when there is no need of his services

It is subject to proof and can be substantiated that in New Mexico to-day more than three-fourths of the people understand and speak the English language reasonably well. There is hardly anybody to be found anywhere in the Territory, old or young, but what understands more or less English, and in the nature of things it is called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the hardly and in the nature of things it called the nature of the na and in the nature of things it could not be otherwise after fifty-six years of "American" government there.

To make a statement baldly, as is made by the subcommittee of the United States Senate, that a majority of the people of New Mexico understand nothing but the Spanish language refutes itself and needs no contradiction. It would have been an impossibility for New Mexico to have been in contact with this nation and under its flag for fifty-six years, as it has been, without all its inhabitants having learned more or less of the English language. statement that the majority of the people of New Mexico do not understand English or speak it is absolutely not so

B. S. RODEY.

Mr. FORAKER, Now, Mr. President, this statement of Mr. Rodey is fully justified by the testimony taken by the majority of the Committee on Territories in the Senate when they made their visit to the Territory. I have read that over very carefully. Every judge who was interrogated on the subject took occasion to say that it was true, just as Mr. Rodey states, that Americans dislike jury duty and always seek to be excused as a rule, and that Mexicans like the duty, and they are as a rule accepted and the Americans excused. But every judge testified also that the Mexicans make good jurors. They said they are careful, thoughtful men, and there was seldom occasion to disturb one of their verdicts.

Something else was testified to—speaking now of the character of these people—by these judges and by others, whose words we have a right to accept without any qualification, and that is that there is no more than the ordinary amount of crime in New Mexico or in Arizona—I mean no more than the ordinary amount of crime as compared with the States of the Union. There is no more crime in Arizona, there is no more crime in New Mexico, than you will find in Ohio, Pennsylvania, and other States; and the crimes as a rule are not of an unusual character. Now and then there is a murder, just as there is anywhere.

There is more or less of cattle stealing, stock thieving, and there

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are other petty offenses not necessary to be enumerated. But one thing which attracted my attention was the statement, made repeatedly in the course of this testimony, that throughout New Mexico and Arizona they are so free from crime. particularly the crime of burglary and larceny, that you rarely find anyone locking and bolting his doors at night. Doors are left open. There is no thought of there being a necessity to take the ordinary precaution which we would not think of dispensing with, of locking and bolting our doors against all comers at nightfall or when we

retire for the night.

That is the character of that community. There are, of course, some bad people there. There are some bad people in every other community. I have never known one where they did not have a reasonably fair share. But in Arizona and New Mexico in every community you will find the church, and not only one church, but if it be a community of any size you will find practically all the churches represented—the Catholic church and the Protestant churches, the Methodist, the Presbyterian, and the Baptist. Everybody seems to belong to some church. The churches are well sustained. And throughout New Mexico and Arizona you will find in every community a schoolhouse, and you will find it well attended and well arranged, and you will find good effects resulting from it.

In Arizona they have a system of compulsory education. They do not ask a boy there whether he wants to go to school but he is compelled to attend. They are far in advance of many communities in the States in that respect. In short, they place a proper estimate on religion, morality, and education, the three

great essentials to good government in this country.

That is not all, Mr. President. They are a patriotic people. In the civil war they responded promptly beyond their proportion when the country made its call for defenders. Three regiments were organized in New Mexico who went into the Union Army and rendered conspicuous service. Their record is one of heroism and gallantry not surpassed by the regiments of any of our States,

so far at least as the average is concerned.

In the recent war with Spain both Arizona and New Mexico responded promptly at the first call, and from there came the gallant men who as a part of the Rough Riders helped to make history and helped to make a President of the United States. When McKinley fell by the hand of an assassin and it was by somebody suggested that there should be a fund raised by voluntary subscription with which to build a memorial monument and such call was issued, that country responded by contributing more per capita than any other State or Territory in the United States.

These are not wild barbarians, not bummers, schemers, promoters, and politicians hunting places, but civilized Americans, representing our best citizenship. They are a busy people, developing a great country, contending against the difficulties and the obstacles of nature, and contributing at the same time. Mr. President, to build up a commonwealth which will be a credit to

the United States.

They are not a people to be rejected because they speak two languages. We heard more than an hour of the time of this body taken the other day in an undertaking to prove that they speak two languages. Well. Mr. President, it is better to be able to speak two languages than not to be able to speak one.

I never heard of it being urged as a disqualification for any-

thing that a man can speak two languages. Especially it should not be heard as an objection on this application now for state-hood, that these citizens of the United States can speak also the Spanish language. We have been making some Spanish acquisitions. There is a demand for people who can speak the Spanish language.

There always has been a propriety in understanding and speaking the Spanish language, so great a propriety that at both our governmental academies, the Naval Academy at Annapolis and the Military Academy at West Point, it is a part of the course, and every officer graduated from there is required to be able to

speak, write, and understand the Spanish language.

Neither is it a disqualification that they are foreigners. We heard a large part of the Senate's time taken up in urging that these people ought not to come into the Union because they were not all American citizens. We have a number of communities in this country where the foreign element is very largely represented, and I am going to call attention to one. I refer to Minnesota. There is no State now in the Union where they have a more loyal, faithful, capable, creditable population than they have in Minnesota. That is not in spite of the fact that they have foreigners, but because the foreign element is sometimes a very valuable mixture.

Let me call your attention to what the statistics show as to the State of Minnesota. There is no better State in the Union, but what I call attention to shows that a representative of that State is the last one to question the fitness for statehood of a people on the ground that a large percentage of them are foreigners.

It is contended that a large part of the inhabitants of New Mexico are Spaniards and Mexicans. The truth about that is that a majority are of the Spanish-Mexican race, some of them living there before the Territory was ceded to us, some of them coming there from Mexico since, most of them, however, born there. Nearly all of them, while speaking their own language by preference, are able, however, to speak and understand our language, and those people are aiding the Americans who have gone there to develop that country and build it up and make it a great, strong, wealthy, capable Commonwealth, such as it is rapidly becoming.

But listen now about Minnesota. The total population of the State according to the census of 1900 was 1,751,394. Total native born population 1,246,076. Total foreign-born population 505,318.

The foreign born population consists of—

| Austrians                                    | 8,872     |
|--|-----------|
| Bohemians                                    | 11,147    |
| Canadians                                    | 47,578    |
| Danes  | 16, 299   |
| English                                      | 12,022    |
| Franch                                       | 1,449     |
| Germans                                      | 117,007   |
| Dutch  | 2,717     |
| Hungarians                                   | 2, 102    |
| Irish  | 22, 428   |
| Italians                                     | 2,222     |
| Manicana                                     | 24        |
| Norwegians.                                  | 104,895   |
| Polanders                                    | 11,361    |
| Russians                                     | 5, 907    |
| Scotch                                       | 4,810     |
| Swedes                                       | 115, 476  |
| Swiss  | 3, 258    |
| Welsh  | 18 (200.) |
| Other countries too numerous to be mentioned |           |
| Other countries too numerous to be mentioned | ,         |
|  |           |

If they should all talk at once the Tower of Babel would not be worthy of mention.

Mr. BATE. How many natives?

Mr. FORAKER. This table shows the native population to be

1,246,076.

Now, Mr. President, with that admixture of foreigners, as I said, they have had enough good sense to have built up a great Commonwealth, to have made a proud record for themselves, and to have sent to this body as their representative the distinguished Senator who has addressed us in opposition to the admission of New Mexico to statehood.

Mr. CLAY. I will ask the Senator from Ohio if he is reading a statement of the population of Minnesota at the present time or

at the time she was admitted.

Mr. FORAKER. I was reading from the population of Minne-

sota according to the census of 1900.

Mr. CLAY. I will ask the Senator what proportion of the population of Minnesota were foreigners at the time Minnesota was admitted to the Union. Is it not true that about 45 per cent

of them were foreigners at that time?

Mr. FORAKER. I regret to say that I am unable to answer that question. I did not think to look at that. But what I want to say is that Minnesota is one of the best States in this Union. Her population, as everybody knows, is an intelligent, patriotic, busy, and capable population. They have never made any mistake in selecting Representatives to the Congress of the United States in either House, certainly not beyond the average number made by States as a rule. Their whole record is a creditable one, and I cite the fact that they have this foreign-born population to show that it does not follow because there are foreign-born citizens in the Territory of New Mexico that that Territory is disqualified for admission to statehood.

I want to say something else here. I say it does not follow because a population is small as compared with that of other States in the Union that they are not capable of doing good work as Commonwealths in this Union. In that respect, I call attention to the fact that the smaller States in this Union have almost invariably given us able statesmen as their contribution to the

statesmanship of this country.

Look about this Chamber; look at Vermont, at New Hampshire, at Rhode Island, the representatives of which now appear in opposition to this bill. Here they are, the smallest of the States; but as they are among the most ably represented here now, so, too, is it a fact that they have ever been among the most ably represented in this body. That is not all. Not only have Vermont and New Hampshire and Rhode Island and Delaware—although Delaware is not represented here now—and Maryland and these other smaller States always been ably represented but the great States of the Union were as ably represented when they were in their infancy, relatively as to population, as they are now. Go back to the history of my own State, and no abler, no more

Go back to the history of my own State, and no abler, no more distinguished, patriots than were the early Senators from that State have ever represented the State in this body; and as there was that kind of representation at the beginning, so there was that kind of representation through all the early life of our great State. When she had a population of only two or three hundred thousand she never made a mistake in electing a Senator.

In other words, Mr. President, the lesson of this fact is that an intelligent and small electorate can always, as a rule, be depended upon to select able and capable men to represent them in the Congressof the United States. It was so as to Indiana. No greater names are on the roll of statesmen showing membership in this body than those who represented Indiana in the early days of that State; no greater than those that represented the State of Illinois in her early years of statehood.

I will not say they were abler than the men who represent those States now; I would not do that; but I mean to say, and that is sufficient, that they compare favorably with their ablest representatives. We have never suffered on account of small States. Therefore, when Senators stand here and say, "Oh! we can not afford to let any more of these small States into the Union; it is an outrage that 250,000 people in New Mexico or Arizona should be invested with statehood, and be given two Senators on the floor of this Chamber to have the same voting power as New York and Pennsylvania"—when Senators say that, I call their attention to the fact that it has never been required, in determining the qualifications for statehood, that there should be equality of population to the end that there might be equality of representation here in this body, but only that there should be the basis of representation for one Representative in the House of Representatives.

Each one of the American States is provided for by the Constitution as to this Chamber. Here there is an equality of States; and until you can show that the legislation of this country has suffered because small States have been allowed to have two Senators here the argument can not avail as against the provisions of the Constitution and the precedents of this Government from the very beginning.

Mr. President, in this connection I want to call attention to something else in favor of these people. So much has been said to their disparagement that it is pleasant for me to be able to point to the records and statistics to show something that is to their credit.

I called attention to the growth of their post-offices, to the growth of the internal-revenue receipts, to their land entries, and to other things that showed that there was great industrial development going on, that there was a great increase in population. and now I want to call attention to something that reflects upon their morals—something which I take from the finance reports for 1890, 1891, and 1892, which show that in New Mexico for the year 1890 there were 7 tobacco factories, and that there was an increase of the number to 1900, when there were 16. At the same time it is shown that in 1890 there were in New Mexico 5 distilleries, and that there has been a gradual decrease until at this time there are but 2. In 1890 there were 7 breweries, and in 1900 there had been such a decrease that there were but 2.

So, Mr. President, while they have been growing in population, while they have multiplied their industries, while they have been diving down into the mines, bringing up rich mineral, and adding to the wealth of the country, while they have added to the prosperity of the Territory, while they have been on the frontier, as the Senator from Maine [Mr. Hale] suggested, yet at the same time, while building their churches and building their schoolhouses, they have been abolishing and dispensing with their dis-

tilleries and breweries; and some of the Senators who represent States on this floor can not show as good a record in these respects;

and no Senator can show a better as to his State.

Practically the same has been the result in Arizona. In 1890 they had ten breweries; now they have only three. Figures are so tedious that I dislike to stop to deal with them. But, Mr. President, I have said enough and I have detained the Senate much longer than I intended when I commenced. It was my purpose to show why it is that I am making this contention, not in accord, perhaps, with the majority of my party, in regard to this question. I have no election about it.

I supposed it was a settled proposition when we came out of the national Republican convention of 1900 that the Republican party of this country proposed to do what we had promised to do to bring these Territories into statehood. I supposed we had so settled it. I have been in favor of the unqualified admission of these Territories from that time until now. I helped draft that declaration, and I helped to secure its adoption. Without new light I could not repudiate it now, and, Mr. President, I have had no light except only that which has strengthened me in the belief that I was right then and that I am in the right now.

I believe that New Mexico is entitled, according to a fair interpretation of our treaty obligations, to admission without regard to any question, excepting only that of population, she having more than the equal of the unit of representation. I believe that in the exercise of our authority and sound discretion the Congress is justified in admitting Arizona, although at this present moment she does not have a population, perhaps, equal to the unit of representation. I believe we are justified in that, because I do not believe with the Senator from Minnesota that it is no injustice to those people and no hardship to those people to continue them under a Territorial government.

It is an injustice and it is a hardship. "Oh," they tell them, "you

It is an injustice and it is a hardship. "Oh." they tell them, "you have good judges sent to you, and the President selects good governors to rule over you." Let it be conceded that that is all true, Mr. President. I have no disposition to raise a question that will involve personalities; but let it be conceded that that is true, and yet the spirit of every American revolts at the idea that he is not to be allowed to select his own judge and his own governor and his own other representatives, whether high or low. That has

been the spirit of Americans from the beginning.

We believe in self-government, Mr. President. Every man who has left his home in the East, where he was living in comfort and peace, and has gone down to this frontier life and taken up his habitation in one of these Territories has gone there with the promise handed out to him by our unbroken precedents that, as soon as they have a population equal to the unit of representation, or substantially so, and it is consistent with the general in-

terests, they shall have the reward of statehood.

That is the promise made to every man who goes there and, Mr. President, this Government has got value received for that promise. It was to the interest of this nation to encourage people to go into the Territories to subdue the forest, to drive out wild beasts, and to drive away the redman, and to make there a habitable home for American citizens; it is to the interest of this people to have men induced to do that, and for that reason we said, having popular representation in the other House, we will give you

equal representation by giving you statehood in the Senate of the United States; we will give you statehood in order that you may elect not only your governors and your judges but your

legislatures who are to legislate for you.

Mr. President, what do we know about what the law should be in New Mexico in regard to mining and other industries peculiar to that Territory? We know only as the information is brought to us. Those people are there; they are on the ground; they are intelligent and capable; they know what their interests require; and they know, Mr. President, how to subserve their own interests

Mr. BEVERIDGE. Mr. President-

Mr. FORAKER. In a moment.

Moreover, every man and every citizen of this country who has fought in two wars especially desires that he may be allowed to participate in the selection of a President and Vice-President of

the United States.

Mr. BEVERIDGE. I understood the Senator to make the point that the people there know better what local laws they need than we do here. Is it not true that the Territorial legislature passes all the local laws the people of the Territory need as much as it is true of a State?

Mr. FORAKER. Yes; it is true that they pass laws of a local character, subject to revision and repeal by the Congress of the

United States.

Mr. BEVERIDGE. But has Congress revised or repealed any

of the laws passed by the legislature of New Mexico except—Mr. FORAKER. No: because their ability as legislators has been so pronounced and acceptable that Congress has not cared to do so.

Mr. BEVERIDGE. Then is there any complaint from that

source?

Mr. FORAKER. Yes, of course there is. Who wants the Government of the United States supervising what the legislature does, and does so capably that we do not think of taking exception to it? The very fact that there has never been occasion to interfere with the work of the legislature of New Mexico is conclusive that the people of that Territory are capable of statehood and That is the very point I want to make. State government.

Mr. President, there are very many other reasons I might give why a Territorial government is not acceptable, as compared with statehood, to a people like that. For more than fifty years they have patiently waited our action. They should not be required

to wait any longer.

This bill provides that all three of these Territories shall be admitted together. It might be that if I had had the original drafting of the bill or if I had had the initiation of this matter I should have provided differently, but it was thought, according to the judgment of those having it in charge, that this was the best and most acceptable way in which to do it. and I see no objection, certainly no objection that any Republican has a right to make in view of our party's declaration and our party's record upon the subject, and I therefore see no valid reason for the exclusion of these Territories from statehood longer. Consequently I shall vote with the greatest pleasure for the omnibus bill.



## THE PHILIPPINE TARIFF.

## REMARKS

OF

# HON. J. B. FORAKER,

IN THE

SENATE OF THE UNITED STATES,

FEBRUARY 24, 1902. FEBRUARY 14, 1903. MARCH 3, 1903.

WASHINGTON. 1903.

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### THE PHILIPPINE TARIFF.

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### REMARKS

OF

## HON. J. B. FORAKER.

February 24, 1902.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. 583) temporarily to provide revenue for the Philippine Islands, and for other purposes—

Mr. FORAKER said:

Mr. President: I regret exceedingly that I was unable to get the floor until we passed under the fifteen-minute rule. I have this regret because a great many things have been said in the course of this debate to which I desire to make answer, or at least attempt to make answer. I shall hope that there will be an opportunity yet given to make the answer which I desire to make

and to which I refer in that remark.

If such opportunity is presented, I think I shall be able to show, Mr. President, that the United States did not act unwisely in acquiring the Philippine Islands: that we not only acted wisely, but that we could not, under the circumstances, have acted otherwise than as we did act. I shall undertake to show, and I think I shall be able to do so, that from the hour we took possession of the Philippines until this time our work has been an uninterrupted success, instead of a miserable and dismal failure, such as it has been represented to be on the floor of this Chamber during the last two or three weeks. And I trust I shall be able to show, without any difficulty whatever, to the satisfaction of every unbiased and unprejudiced mind, that the American Army in the Philippines, officers and men alike, have been guilty of no unnecessary cruelty, no unnecessary harshness, certainly no barbarity such as has been depicted here; that, on the contrary, they have been the same gallant and heroic men the American Army, officers and men alike, have ever been wheresoever they have carried our flag to battle and to victory.

I shall undertake to show also, Mr. President, when I have opportunity to speak at length, that the civil commission, the Taft Commission, as it is called, has acted only wisely and judiciously, patriotically and efficiently, in all that it has done in the Philippine Islands. I shall undertake to show it has enacted no statutes that have not been called for and justified by the necessities of that situation, and that to-day, as the result of what has been done in the Philippine Islands since we took possession, we are in peaceful control of four-fifths of that archipelago, and soon, if we continue the policy we have been pursuing, we shall be in peace-

able control of the whole of the archipelago.

But, Mr. President, as to all these subjects I must, as I have in-2 5658 dicated, pass them by until I have opportunity to speak at length. Having only a few minutes at my disposal, I want to confine myself to a discussion of this bill upon its merit. The debate has been so extended and so exciting in some respects that I think I may safely say that pretty nearly everything suggested by a mention of the Philippines has received more consideration than the measure under consideration.

It is a bill to raise revenue, not for the benefit of the United States Government, but for the Philippine Islands, to sustain the civil government that we are establishing there. The bill approves and puts into continued force and operation the tariff schedules adopted for importations into the Philippine Islands by the Taft Commission, and it provides that upon all imports into the United States there shall be levied and collected 75 per cent of the full Dingley rates of tariff duties on all dutiable articles.

I have given notice that at the proper time I shall offer an amendment to strike out 75 per cent on importations from the Philippine Islands and insert 25 per cent. I want to indicate in the little time allowed me why I shall move that amendment.

In the first place, Mr. President, I shall make that proposition because the Philippine Islands are our own, and being our possessions they ought to be treated as nearly as circumstances will allow as we have treated other possessions belonging to the United States. All know how we have treated Porto Rico and Hawaii. Porto Rico and the Philippines came to us by the same title. by the same deed of cession. They sustain toward us in a legal sense precisely the same relation. We have given Porto Rico free trade, for a short time levying a small duty on certain articles of commerce between the two countries because there was a necessity for it to support the Porto Rican government. Now they have free trade with us, however, on everything.

I think we ought to approach as nearly as possible to free trade with us in levying tariff duties for the benefit of the Philippine Islands. I mean free trade between the United States and the Philippine Islands. I have looked into this matter somewhat and I have found, what I think every other man will find who examines the question, that there is no necessity for levying any duties upon importations from the Philippine Islands into the United States, except only to raise revenue for the Philippine Islands. There is no danger, in my judgment, to any protected industry of this country, certainly not to tobacco or sugar or anything else that has received tariff protection under the Dingley statute.

Mr. President, I have not time to develop and elaborate it, but it is my opinion that there will be more revenue raised by collecting only one-fourth the Dingley rates than there will be if we undertake to collect three-fourths of the Dingley rates; for the simple reason that 75 per cent of the Dingley rates will prove practically prohibitory.

But aside from that there is another reason of greater force why I hope we will cut the duty down to 25 per cent, and that is the effect it will have upon the Filipinos themselves. We have heard a great deal in this Chamber during the last two or three weeks about the unsatisfactory feeling and disposition of that people toward the United States. I do not know to what extent all this is true. I think much that has been said has been an exaggeration, but it is undoubtedly true to some extent. To whatever extent it may be true, there is nothing we can do to

help our authorities and representatives in the Philippine Islands so much in their effort to restore law and order and establish government as to create a feeling of kindliness and friendship on the part of that people toward us; and the best way to do that is to show that we have a feeling of kindliness and friendship toward them; that they are possessions of the United States, and that we propose to treat them as possessions of the United States.

Now, Mr. President, why is that? There is something more than sentiment about it. The sentiment itself might be sufficient, but there is more than sentiment about it. If we would have those people live satisfactorily under the government that we will establish, accepting it and abiding by it, we must make them satisfied with it. I do not care how good a government you establish, and I do not care how good a set of men you put there to discharge the duties of that government and operate the governmental machinery, there will be trouble unless the people themselves are satisfied with their domestic condition, and no people will be satisfied who do not have prosperity, and no people can have prosperity who do not have markets:

Therefore what we want to do is so to legislate as most efficiently to help the Filipinos, not only to have peace, law, and order, and protection for property, and liberty, and life, but also to have an opportunity to develop their country. To accomplish this they must have an opportunity not only to reap, but also an opportunity to sell, and therefore I think we should let them into our markets upon the best possible terms we can afford to accord to

them. Their prosperity is our prosperity.

Now, there is a reason why we should make the tariff at this end of the line as low as possible. We have been demanding the open-door policy in the Far East. We have been demanding it as to China and Japan and all other countries. We want an opportunity to trade on equal terms with the six or eight hundred millions of people in the Orient. But we can not demand the open door as we have been demanding it and refuse it consistently as to the Philippines. But if we are to grant the open door as to the Philippines, then that means that every other country with its importations into the Philippines will go in there on precisely the same terms we go in upon. If we go in without tariff, every other country will go in free of duty. If we levy only half rates, we can collect only half rates from other countries.

The result is that if we would supply the civil government of the Philippine Archipelago with a sufficient revenue to support it we must, as the Taft Commission has already provided, levy and collect important tariff duties on importations there, and we must collect the same from ourselves that we collect from all other countries of the earth. In other words, we can not show favor beyond certain limitations to the Filipinos at that end of the line. The favor must be shown here; and if we show it here, we have no way to show it except only by reducing, as much as we can afford, the rates of duty which we impose and collect on their

importations into this country.

For reasons of this character, which under the circumstances I have no time to elaborate or dwell upon or enforce by argument. I have offered this amendment. I have offered it from a sense of duty. I speak in support of it from the same prompting, and I sincerely hope that it may be adopted by the Senate. The bill I am most heartily in favor of in every other respect.

Now, Mr. President, if I have a moment left let me employ it to

say that if there is anybody in the Senate of the United States or in the country who is estopped to complain of our policy in the Philippines or to criticise what has been done there it is the man who favored the annexation of the Philippine Islands, the man who favored the ratification of the treaty of peace with Spain under which we took the cession of title to the Philippines, and particularly, Mr. President, the man who favored the acquisition of the Philippines by the ratification of that treaty after the insurgents and our troops had come into hostile conflict on the 4th day of February, 1899. The treaty was ratified on February 6.

Senators have spoken here—I refer particularly to the Senator from Colorado [Mr. Patterson]—in criticism. He, I am sure, will admit that during all that period he advocated the ratification of that treaty; he advocated it after this conflict to which I have referred; he advocated it also, Mr. President, when he knew what the policy of the United States Government would be in the Philippine Islands, for he advocated it after the order issued by the President—which has been referred to here—to criticise it, dated the 21st day of December, 1898, in which the President outlined what our policy would be, and pointed out that it would be precisely what it has been: for President McKinley in that order announced that it would be our effort to enforce law and order, establish government, maintain, uphold, and enforce the American authority, using whatever of force and power might be necessary to that end. We have done nothing more than that.

## February 14, 1903.

Mr. LODGE. I ask the Senate to proceed to the consideration of the bill (H. R. 15702) to amend an act entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March 8, 1902.

The PRESIDENT pro tempore. The bill will be read for the

information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. CARMACK. Mr. President, I did not understand for what bill consideration is asked.

The Philippine tariff bill. Mr. LODGE.

Mr. PATTERSON. I object, Mr. President.

Mr. LODGE. I trust the Senator will withhold his objection until the committee amendments are adopted.

Mr. PATTERSON. And then interpose the objection? Mr. LODGE. Yes. I trust the Senator will allow the bill to

be perfected and then it can go over if he so desires.

Mr. FORAKER. Mr. President, I am heartily in favor of the immediate consideration of the bill, but I am just as heartily opposed to the amendments of the committee; and I wish to say to the Senator from Massachusetts at this time that I shall oppose the amendments increasing the tariff duties, as recommended by the committee, from 25 to 50 per cent.

Mr. LODGE. I will say to the Senator from Ohio that I agree with him as to the amount of reduction which ought to be made, but if the Senate amendments are not adopted the bill can not pass. I prefer to take the bill with a partial reduction rather than to lose the bill by trying to get what I know will give rise to so much opposition and debate as will make it impossible at

this session to pass it.

Mr. FORAKER. I do not know by what warrant the Senator says the bill can not pass unless the duty is increased from 25 to 50 per cent on certain articles, as recommended by the committee. It is now perfectly apparent to everybody that we have a condition of distress in the Philippine Islands that is largely due to the fact that for the products of those islands they have no market, and we owe it to that people—our own, as they are—to give them a market.

This is a matter about which I feel most keenly. The Senator will remember when the bill was passed providing that the tariff should be 75 per cent of the Dingley rates on products coming into this country from the Philippine Islands, I then wanted to put it down to 25 per cent. I wanted to put it down to 25 per cent because the information I then had as to the situation in the Philippine Islands led me to believe that there could not be any prosperity in those islands unless the people there were given a market for their products, and this is the only country which can give them a market that the people there were given a market for their products, and this is the only country which can give them a market for their products.

give them a market for their products.

What was then predicted has come to pass. They have poverty and suffering and need help. If we put the duty at 50 per cent we do it in the face of the recommendations of Governor Taft and of everybody else who is charged with the responsibility of government in the Philippine Islands. Our experiment of government there will be an absolute failure, in my judgment, unless we make conditions there which will admit of prosperity; and I want, whenever this matter is taken up, to discuss that proposition.

Mr. LODGE. Mr. President, the House of Representatives sent to the Senate a bill, which has just been read, which reduces the duty, as the Senator from Ohio [Mr. Foraker] has stated, on all articles produced in the Philippine Islands to 25 per cent of existing rates. Personally, I am in favor of that reduction. The committee has amended that House proposition so as to admit to this country all the products of the Philippine Islands entirely free of duty, except sugar and tobacco. On those articles the amendment provides for half the existing rates, instead of three-fourths, as at present collected.

Mr. President, when I said what I did, I spoke, I think, with knowledge in regard to the opposition to reducing the duty on sugar and tobacco, the only two articles on which duties are retained, below 50 per cent of the present rates. I am certain that if we seek to retain the House proposition, it will lead to such a

protracted debate that the bill will be lost.

Mr. President, the situation in business in the Philippine Islands is extremely bad. The measure that is most needed there is that which provides for giving them a stable currency. Their currency is now in a condition of chaos. The lowering of our duties

will undoubtedly help them in their export trade.

At this stage of the session it is not a question of whether we can get a little more or less reduction, but to get the best possible. The complete failure of these two bills would be, in my judgment, an act of absolute cruelty to the people of those islands. I should like to get a 75 per cent reduction; but rather than lose the bill I will compromise on 50 per cent on sugar and tobacco.

Those bills are both of essential importance to the people of those islands, and I hope the Senate, before this session concludes, will pass both bills and enable them to become law before the 4th of March.

I can only say to the Senator from Ohio that I hope he will be willing to do what I have done, and at a sacrifice of his own personal opinion get the best we can at this time in the reduction of the tariff; make everything free, except sugar and tobacco, and lower the duty on them 50 per cent.

I am sure, Mr. President, that that is the most immediate and direct way to giving some help to the business interests of the

Philippine Islands, and they need it very much indeed.

Mr. FORAKER. Mr. President, when I am satisfied that that is the best we can do I shall then be willing to vote for the bill, but I should vote for it under protest and with a feeling that I had not voted for the kind of legislation we ought to enact if I were to support a bill that provides for the imposition of 50 per cent of the Dingley rates upon any of the products of the Philippine Islands coming into this country. If we are going out into the sea to take in acquisitions of territory of this character we must do it with the understanding that they become our possessions and that we become responsible not only for their government, but for their prosperity as well, and that we must treat them accordingly.

I believe we ought to treat them as our own; not as foreigners. I have looked into this matter enough, and if there were time I should be glad to go into it at length to satisfy me that there is no danger to any interest in this country from opening our markets to the Filipinos; and if there were it would be only from the competition of one part of our country with another part. If we were to admit all of their sugar and all of their tobacco here absolutely free of duty, in my judgment we would not be doing anything more than we ought to do.

If it comes to the point where, on account of these objecting industries, we can not treat our own as our own should be treated. I shall move that we have absolute free trade between the United

States and the Philippine Islands.

In that country they will have this year, I am told, not more than 10,000 tons of sugar, the poverty and distress being such that production of that article is reduced to that pitiable result.

Mr. PATTERSON. Will the Senator from Ohio permit me? The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Certainly.

Mr. PATTERSON. I think the Senator from Ohio is mistaken when he says that the reduction of the tariff as proposed will interfere with no industry in this country. It is true the importation of sugar from the Philippine Islands is now exceedingly small: but the Senator will bear in mind that the testimony taken before the Philippines Committee is that there are in the neighborhood of 8,000,000 acres of Philippine soil that is as well adapted to the raising of sugar as is the soil of the Hawaiian Islands or the island of Cuba; and with the land laws that are in force there now, with the opportunities for the great exploiting corporations to get possession of the lands by the thousands of acres, I will venture the assertion that, if this bill becomes a law, within less than ten years the local sugar industry of the United States will be practically wiped out: that the sugar-cane industry of Louisiana and the beet-sugar industry of the State of the Senator from Michigan [Mr. Burrows], of the State of Colorado, and of other beet-sugar raising States, in ten years will be wiped out on account of the immense area of that Philippine territory that

may be used for the cultivation of sugar.

It is for that reason that I oppose this bill. I prefer the bill as it is proposed to be amended, because it does yet keep up some barrier against the sugar of those islands as their production may be increased; but I am opposed to the reduction of the tariff to any extent beyond what it now is for the same reason that the Senator from Pennsylvania [Mr. QUAY] would oppose the reduction of the tariff upon articles which his State produces, and for the same reason that the Senator from Massachusetts [Mr. Lodge] would oppose the reduction of the tariff upon articles which his State produces.

I knew very well that these great industrial questions were bound to arise, and before our country is flooded with the products of those islands the proposition is to open the door wide so

that they can come in without opposition.

Mr. BEVERIDGE. Will the Senator permit me a question?

Certainly.

Mr. PATTERSON. Mr. BEVERIDGE. From what the Senator says I infer that the Senator is not in favor of a tariff for revenue only. Is that correct?

Mr. PATTERSON. As long as protection, whatever its phase may be, is the controlling economic position of this country. I propose to stand for the protection of the products of my own section, whatever my attitude may be upon the question of the tariff as a broad, general proposition.

Mr. FORAKER. Mr. President, I do not at all share the apprehensions of the Senator from Colorado [Mr. Patterson]. If I did. I might possibly dislike the idea I am advocating, for I do not want to do any injury to the industries of this country. For

the present there is no danger of that.

My information is that the total product of sugar, for instance, in the Philippine Islands for any year has been not in excess of about 60,000 tons, and that this year it will not exceed 10,000 tons.

Mr. TELLER. Mr. President— Mr. FORAKER. If the Senator will pardon me just a moment, my information is that it will be quite a number of years, necessarily, in view of existing conditions, before they can produce any great amount of sugar in the Philippine Islands. When the great increase that the Senator apprehends will come does come, those who come after us can legislate for the Philippine Islands. What they want and need now is a market in which to sell the products which they have; and we ought to give it to them.

Mr. PATTERSON. That would be closing the stable door after the horse had been stolen.

Mr. TELLER. Mr. President-

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Colorado?

Mr. FORAKER. Yes; I yield to both of them.

Mr. TELLER. I want to say to the Senator what he ought to know, and what he probably does know, that before our war with Spain the Philippine Islands produced 400,000 tons of sugar.

Mr. FORAKER. Not for export.

Mr. President, those islands can produce all the sugar that we want to use and a great deal more, and with their cheap labor, with a million of Chinese or half-breeds which they have, they will put our American sugar growers on a par with that class of laborers.

Mr. FORAKER. Mr. President, I am glad to see the Senator from Colorado is apprehensive about the protection of American

Mr. TELLER. The Senator from Ohio need not throw that at

Mr. FORAKER. No; I do not.

Mr. TELLER. I have myself always been a protectionist. Mr. FORAKER. I understand and appreciate that fact. Mr. TELLER. But I insist that protection shall apply to the people of the West as well as it does to the people of the East.

Mr. FORAKER. I was not throwing anything at the Senator. I was simply saying that I was glad to see that he favors the protection of American industry. But, Mr. President, it is an American industry that you find in an American possession, wherever it may be. If we are going to hold the Philippine Islands, I want the Philippine Islands to have prosperity. What is produced in the Philippine Islands is an American production, and we should protect and develop it the same as any other production of any other part of our country. We should not bar them out of our market as to their natural products and drive them into something that is not natural to them as an industry. They must live; and they must prosper, or all we do is failure.

When Senators talk about sugar, they should remember that we consume in this country two and a half million tons per amum. Of that amount we produce in this country and in all our possessions less than a thousand tons. We must have a million and a half tons from some place; and why not have this million and a half tons from our own people, instead of getting it from Germany or from some other country, as we are doing to-day?

I believe in giving to the people of the Philippine Islands—who are to-day in distress more than for any other reason because they have no market in which to sell their products—the American

market on reasonable terms.

I would not favor putting any duty on their products coming into this country, except only to furnish revenue for the support of their government. It is because their government needs revenue that I am willing that we may impose some duty on goods coming into this country, which duty is to be collected for the benefit of that government. Otherwise I should be in favor of treating their products just as we treat the products of any other part of our country. The policy of protection has been protection against the products of foreign countries. We have never had protection against the products of our own country—one State or section against another—and I hope we never shall.

I understand the bill is now going over, and therefore I shall not prolong my remarks.

Mr. PATTERSON. I should like to ask the Senator a question, with his permission.

Mr. FORAKER. Certainly.

Mr. PATTERSON. The Senator speaks of the Philippine Islands being "our territory." Do I understand by that that the Senator is now ready to proclaim that it is his policy to hold the Philippine Islands forever, or, as I understood the position of the Senator to be at the last session of Congress, to hold them until they are ready for self-government?

Mr. FORAKER. Mr. President, according to the judgment of the Senator from Colorado as to the capacity of that people, that

would be forever, as he has told us time and time again.

I have said that I want to hold the Philippine Islands until they are capable of self-government and until we shall have discharged all the obligations which we undertook in the treaty of peace with Spain, and that will be so long in the future that it is a matter we need not now consider. The Philippine Islands will be our possession through many years to come, as every Senator here knows, and it is idle to discuss whether or not we shall ever part company with them. We know they are ours now, a possession of the United States. We are responsible for the government of the Philippine Islands, and we are responsible for the conditions industrially that obtain there in so far as legislation may have to do with those conditions. Let us attend now to the duties of the present and leave those of the future to our successors.

Mr. CARMACK. Mr. President, I do not care to go into any discussion of this matter, except to say that, so far as I am concerned, I should be entirely willing for this bill to be now con-

sidered and to be very soon voted upon.

I want to say, however, that, in my judgment, this reduction of 50 per cent would be absolutely without any value whatever to the people of the Philippine Islands, and that if it had been of any value, it would be impossible to pass it through this Senate or through this Congress. It is a notorious fact that we are permitted to pass the bill in its present shape only because Mr. Oxnard has decided that he is willing for it to be passed in this shape; and Mr. Oxnard did not consent for it to be passed in this shape until after he had decided that it would not do him any harm or would not do the Filipinos any good. Consequently I think that it is a matter of very small consequence whether this bill passes in this form or not. I am willing myself for the bill to be considered and for the Senate to vote on it with very little debate after voting on probably two or three amendments, which we shall have to present.

I want to suggest to the Senator from Ohio [Mr. FORAKER], when he says we must legislate with a view to benefit the people of the Philippine Islands, that, in my judgment, the time will never come when this Congress will be influenced by any such motive. It will legislate from the narrowest point of view and for the selfish interests of a few people in the United States without any reference whatever to the welfare of the people of the Philippine Islands. I do not think I have seen any indication whatever on the part of those who are most responsible for Philippine legislation of any real desire to promote the welfare of the Filipinos. It is always some desire to get some advantage for

somebody in the United States.

Mr. TELLER. Mr. President, I have here an extract from a newspaper published at Habana which I want to have printed in the RECORD in connection with this debate. It touches on the question of the reduction of the duty on sugar. It is short, and I will indicate what I desire to have printed. The article sets forth the opinion of the editor of one of the leading newspapers in the island of Cuba. I desire to use it, and I want to have it in the RECORD so that Senators may see it.

The PRESIDENT pro tempore. The Senator from Colorado

asks that the paper which he sends to the desk may be printed in the RECORD. Is there objection?
Mr. HOAR. Is the article long?

Mr. TELLER. No; it is not long.

Mr. HOAR. If it is not long, I think it ought to be read. I do not like the precedent of printing newspaper articles in the Rec-

ORD without reading.

Mr. TELLER. I have no objection to its being read. We have, however, been in the habit of putting such things in the RECORD, depending upon the sense of propriety of the Senator presenting them as to their contents.

Mr. HOAR. I have not the slightest doubt of the Senator's soundness of judgment in such a thing. I hope he understands

Mr. TELLER. Let the article be read.

Mr. PLATT of Connecticut. Mr. President, before the reading takes place I wish to advise the Senate that when it is concluded I shall ask that the memorial exercises, which were set for this afternoon in relation to the deaths of several members of the other House, may take place.

The PRESIDENT pro tempore. The Secretary will read. The Secretary proceeded to read the article submitted by Mr.

TELLER.

Mr. BEVERIDGE. Mr. President, I suggest, as the reading so far as it has progressed has indicated the scope of this article, that it may go in the RECORD without further reading if that be agreeable to the Senator from Colorado.

Mr. TELLER. It is agreeable to me, but the Senator from

Massachusetts [Mr. HOAR] asked that the article be read.

Mr. BEVERIDGE. I have spoken to the Senator from Massachusetts in regard to dispensing with its further reading. Mr. HOAR. I have no objection. I only desired that the

Senate should know the purport of the article.

The PRESIDENT protempore. The Chair hears no objection to the request that the further reading of the article be dispensed with and that it be printed in the RECORD, so that order will be made. The article is as follows:

QUESTIONS OF THE DAY.

At a recent meeting of a local committee of the Planters' Society Señor Garcia made a speech in which he gave the usual outline of the plans of the

The following is what he had to say about the outlook for the sugar in-

dustry in Cuba:

custry in Cuba:

"It is almost sure that in the coming September the Brussels convention will be put in force, to which all have now agreed except Russia, and this will cause a reduction in the production of beet sugar. If to this be added the approbation of the reciprocity treaty with the United States by the American Senate, we shall acquire a greater benefit than that represented by the small reduction of all property of the special required to Chipan Sugar a benefit to which

American Senate, we shall acquire a greater benefit than that represented by the small reduction of 20 per cent granted to Cuban sugar, a benefit to which those who discuss the treaty here have not given their attention.

"The great danger for Cuban sugar is not the German, Belgian, or Javan product; our great enemy is American beet sugar. If the production of beet sugar continues to increase in the United States, our prospects are seriously threatened, and therefore anything that directly or indirectly tends to prevent the increase of the same favors us, and we ought to accept it. This is what occurs with the treaty, because the 20 per cent concession, small as it is, weakens the protectionist wall, only behind which can the American beet men and capitalists fight us, and they, fearing the consequences of distant but probable undermining of the wall, hesitate to-day about giving to an industry which may disappear to-morrow, crushed by our competition, the monetary resources it needs for its increase and development. This is the secret of the fierce opposition which has been made in the American Congress.

gress. "Returning now to the effects of the treaty, if the Brussels convention

causes a reduction in the production of beet sugar, an increase in the production of cane sugar will be of necessity caused, and it is probable that this increase will take place in Cuba more than in other places, owing to the favorable conditions existing here for the cultivation of the cane; above all, if the commercial treaty favors our products in the American market. There are, moreover, at present two factors which favor this increase; the foreign capital which is being invested in lands for the cultivation of cane and the opening of the Central Railroad, which facilitates the exploitation of virgin districts which up to now have remained abandoned through the lect virgin districts which up to now have remained abandoned through the lack of communication. If for all these reasons the production increases and we do not prepare in time, we are certain to find ourselves enveloped in a dan-

of communication. If for all these reasons the production increases and we do not prepare in time, we are certain to find ourselves enveloped in a dangerous crisis here.

"You will ask, How can an event be prejudicial which in itself means prosperity and abundance? We have plenty of land, as there are two-thirds of the country waiting for the cultivator. Machinery: It is now a question of a few months to put up a mill which can grind 200,000 sacks of sugar. Money: With the profits being made there will be money enough. Ways of communication: We have along the existing railroads alone and in the districts adjoining the ports enough land to produce 3,000,000 or 4,000,000 tons. But what we want is labor; and if we do not study the matter and prepare for the difficulty in time we shall be faced with a grave problem.

"With the existing supply of labor in Cuba double the amount of cane can be cultivated that can be grown, and if we devote ourselves to planting without bearing in mind that the day will arrive for grinding we will find ourselves with the crisis upon us.

"According to my calculations the cultivation of the cane costs as much as to gather it in. To keep a cane field in good order and to make the necessary annual plantings costs in the Clienfuegos districts \$\frac{1}{3}\$ for every loarrobas of cane, and we all know that to cut and convey the cane to the mill costs the same. But, and this is the question, the cultivation lasts eight months and the crop four, and if the cultivator pays the same amount in wages as the gatherer it is obvious that double the number of men must be employed by the latter. If the number of men for the gathering in of the cane and the men necessary for the manufacture of the sugar, transport, etc., be added, it becomes clear that the time may arrive when we may have twice as much cane in our fields as we can grind; and even if this condition does not come to pass, if the production of cane increases and the number of hands does not increase with it, labor will become dearer in d

the profits of the planter will diminish in proportion."

For this reason Señor Garcia recommends that steps be taken to provide for the transport of immigrants, so that when the time comes we may have

all the laborers we may require.

The PRESIDENT pro tempore. The Senator from Massachusetts asks unanimous consent for the present consideration of the bill. Is there objection?

Mr. PATTERSON. I object.

The PRESIDENT pro tempore. Objection is made by the Senator from Colorado, and the bill goes over.

## March 3, 1903,

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 15702) to amend an act entitled "An act temporarily to provide revenue for the Philippine Islands, and for other purposes," approved March 8, 1902.

Mr. BACON obtained the floor. Mr. MASON. Mr. President-

The PRESIDENT pro tempore. The Senator from Georgia has been recognized.

Will the Senator from Georgia permit me to ask Mr. MASON. unanimous consent to call up a very short bill? The Senator from Maryland-

Mr. LODGE. I shall have to object, as I said before, I want to get action on the pending bill.

Mr. MASON. I hope-

Mr. LODGE. If I let in one I can not refuse others.

Mr. MASON. I want to make a statement to the Senator from Georgia.

Mr. BACON. Even if I yielded it would do no good if the Senator from Massachusetts objects to the consideration of the

Mr. MASON. I should like to make a statement, if the Senator

will allow me.

Mr. LODGE. The Senator will have an opportunity later to

pass the bill.

Mr. MASON. The Senator from Maryland was called away by reason of a death in his family, and I promised to call up the bill if I could. It is a matter where a man—

Mr. BACON. It will be useless for me to yield, with the objection of the Senator from Massachusetts to the present consid-

eration of the bill. So I will proceed.

Mr. MASON. Very well.

Mr. BACON. Mr. President, the Senator from Colorado [Mr. Patterson] appeals to Senators who represent States in which there is sugar production. In the State which I have the honor in part to represent there is some sugar production. It is expected that there will be a great deal more. In the next month a sugar convention is to be held in my State under the auspices, if I may so say, of the Department of Agriculture. But it matters not to me how that may be. I think that the Government of the United States is under the highest moral obligation to pass this bill. I think we should go much further than this bill goes. I think we should entirely lose sight of the mere question of personal interest, if I am correct in the view as to our moral obligations in this matter. The question presented is not like the question presented as to intercourse between this country and a foreign country, or even a quasi-foreign country, such as Cuba may be, but it is a question which rests upon very much more serious considerations.

Now, of course, it is unnecessary for me to say that I have been utterly opposed to the acquisition of the Philippine Islands. I have been utterly opposed to the retention of the Philippine Islands. I would be glad now to see some way in which those people might be left to themselves, under such care as might be necessary to protect them against present evils from outside sources. But I must look at conditions as they exist. In spite of the fact that those who have with myself objected to the acquisition of the Philippine Islands have been disappointed in our efforts to prevent the retention of the islands, the fact exists that we have retained them, and they are to-day absolutely subject to our control and to our dominion and are absolutely dependent upon what we may do for them in the way of trade relations with

ourselves and with other countries.

Mr. President, while I do not share the apprehensions of the distinguished Senator from Colorado [Mr. Patterson] as to the threatened production of sugar in the Philippine Islands and the threatened competition of sugar grown in the Philippine Islands with sugar produced in this country, for reasons which I may mention a little later, yet if I did share such apprehensions, appreciating as I do the condition of that people—not simply from what we have heard, but from what I myself have seen—

I would still say that now is the time when we should extend the hand of relief to a desolate people, because that is what they are.

Mr. PATTERSON. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Colorado?

Mr. BACON. I do.

Mr. PATTERSON. Does the Senator from Georgia know what the extent of relief will be through this bill? I will state to him that taking the very highest importation of sugar from the Philippines in any one year of the past ten years as the index it would amount every year to \$750,000, and taking the lowest it would amount to \$25,000.

Mr. CARMACK. That is an index that it would not do much

harm.

Mr. BACON. That is what I was about to say.

Mr. PATTERSON. It is not to-day, but the future. We are guarding against an inroad upon our industry, and we must look

to the future, and not confine ourselves to a single year.

Mr. BACON. The inquiry suggested by the Senator from Colorado would, so far as present conditions are concerned, indicate that there would be no special injury resulting to the industry of this country from competition in that particular industry in the Philippine Islands. I want to say to the Senator that what appears to be a very small amount here is a very large amount there, and possibly if it is limited to the very small amount as we consider it, as stated by him, that amount of itself, in the low scale of living that those people have, amounts to a great deal.

But it is not limited entirely to sugar. Of course it extends to tobacco, and all other articles are free. Now, that fact is a matter of objection to some Senators. They say that all other things are free. I am not going to discuss details, and I am not going to take much time. I am simply going to present one thought

which I have.

There is no doubt about the fact that that country has been utterly desolated. We know that fact from the reports which we have, and I have had ocular demonstration of the fact. We have had it stated here that by reason of the ravages of war and the rinderpest the working animal of that country has been destroyed, and it has been spoken of as a comparatively recent event. I can say from personal knowledge that two years ago, or nearly two years ago, the statement was made then, as it is now, that 90 per cent of the carabao had been destroyed. It is not a recent matter, but it was so two years ago. It is the only work animal that can be used in that country by reason of the climate, and it could not be used in that country were it not for the fact that it can immerse itself in water every two hours and in that way prepare itself for renewed work.

The food crops have been destroyed. Their little villages have been destroyed. Their farms have been broken up. Their people have been scattered. Hundreds of thousands of them have died or have been killed. If to-day there is on earth a spot of utter want and desolation it is the Philippine Islands. I make no criticism of anybody in this connection, certainly not at this time, for any responsibility for that. I am speaking of an existing condition. I am not making any imputation or casting any reflection upon any agency by which this condition was brought about. But, nevertheless, it is an existing condition among a people ab

solutely dependent upon us.

I believe as a matter of law it is our duty to extend free trade to those people. I believe there should be free trade between those islands and this country. However, I will not stop to discuss that. But as a matter of simple justice, ought they not to have it? I am not only prepared to vote for this bill, but I am prepared to go further and say that they shall have all the advantages they can enjoy by reason of unrestricted commerce be-

tween that country and ours.

Mr. President, the learned Senator from Colorado speaks about the vast production that is going to come from those islands. There is no man within the sound of my voice who will ever live to see it, unless we should turn the flood of Chinese immigration upon those islands. It is an impossibility The Senator talks about skilled labor. I do not know what may have been said before his committee, but if you will go to that country you will find in the shops, in the saddle shops, in the harness shops, in the cigar shops and cigarette shops, and in all such places, skilled Filipino labor. There is not where the great difficulty is to be found. The Filipino will never be an active laborer outside of those small industries. When it comes to agriculture, he limits himself to such work as is necessary to supply the common wants of life, and when he gets them he is happy and wants no more. Wages are no temptation to him. He wants simply that which will supply the necessaries of life, and the time will never come within this generation or within the life of any man now living when there will be such an active agricultural industry in those islands as will make any production that will threaten the industries of this country.

However, as I have said, I am not going to discuss those questions. I wish to put the action in this matter upon the high ground, without easting reflections upon anybody, that without their agency and against their will they have been brought under our subjection. It is a fact that they are in a condition of utter want and desolation, and it is a further fact that the condition we are seeking to meet is a present condition and should not be put aside by the simple suggestion as to what may be the condition in the future. If in future the condition shall change, then, if necessary and proper, we can make a change to meet it: but what shall be done now? Does the fact that these people are starv-

Mr. PATTERSON. Let me ask the Senator from Georgia a question.

The PRESIDING OFFICER. Does the Senator from Georgia

vield?

Mr. BACON. With pleasure. Mr. PATTERSON. Will the reduction of the tariff on sugar or tobacco give a single Filipino a carabao now or next year? The thing to do, if you want to give them relief, and I am in favor of it, is to give them \$10,000,000 from the United States and have it expended by the Commission for the purpose of buying carabaos now, and giving those to them, so that they will get present relief. This bill does not bring present relief. It is all for the future, and for the benefit of speculators in the future.

Mr. BACON. The very earnest contention of the Senator, if correct, of course would comparatively close the argument, but I differ with him as to that statement. It is not necessary as the result of this particular piece of legislation that there should be money put into their hands to buy carabaos, but no one can possibly dispute the proposition that every advantage which we give to them in the way of trade is a stimulus pro tanto in the way of production, and that every advantage in the way of production assists to put bread in the mouth of the hungry. It is with that view-

Mr. FORAKER. If I may interrupt the Senator, I wish to make a statement in answer to the remarks of the Senator from Colorado. To give to the people of the Philippine Islands a market will make valuable their possessions in the Philippine Islands. on which they can raise money, which they can not now, because they have no markets, and therefore no values, and thus they can relieve themselves. Ten million dollars would be soon spent, and but little good to a great people like this would be felt; but if you give them a market you make valuable all their possessions, and they can take care of themselves. That is all they need.

Mr. PATTERSON. May I ask the Senator from Ohio a ques-

tion?

The PRESIDING OFFICER. Does the Senator from Georgia vield?

Mr. BACON. With pleasure.

Mr. PATTERSON. I ask the Senator whether or not when you give them a market in the articles that we produce to the extent that you give them a market, are we not replacing the production of our own people?

Mr. FORAKER. The Senator has been insisting that all they would send here would be of very little value or but little in

amount.

Mr. PATTERSON. The Senator from Ohio agrees with me.

Mr. FORAKER. No. I think but little would come next year or the next year, but year by year the importation to this country from the Philippine Islands would grow, and in the course of time they would no doubt become of considerable magnitude. If they should ever threaten our industries, the people, as the Senator from Georgia has suggested, who would then be legislating for this country could deal with that question in a way that would be just. But on that point I have no fear. Except only for revenue. I would no more think of putting a tariff between the United States and the Philippine Islands than I would of putting a tariff between Colorado and Ohio or Georgia. They are ours and should be so treated.

Mr. BACON. I am delighted to hear the Senator from Ohio say that. I think that is the condition to which we should come. That is the proposition I should like to see made the basis of action here.

Mr. PATTERSON. Mr. President-

The PRESIDING OFFICER. Does the Senator from Georgia vield?

Mr. BACON. With pleasure. Mr. PATTERSON. The Senator from Ohio practically admits my contention. He says it will not bring much relief now, but it is a relief that will come in the future.

Mr. FORAKER. Mr. President—
Mr. PATTERSON. In one moment. Wait until I get through.
Mr. FORAKER. But the Senator has gone off—
Mr. PATTERSON. Year by year the production of the islands will increase, the trade and the revenue will increase, and it is in the future that the relief is to come, and not in the present.

Mr. FORAKER. Mr. President—

Mr. PATTERSON. One moment So far as absolute free trade is concerned between the islands, whenever the Senator from Ohio and his party by legislation will secure the relations between the Philippine Islands and the United States that exist between the United States and organized Territories, then under the Constitution the mouths of all objectors are closed. But you hold them as a conquered province and you rule them at will, and you legislate for them to suit the interests of greed at home under the pretense of relieving the necessities of those abroad.

Mr. SPOONER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. BACON. With pleasure.

Mr. SPOONER. Does the Senator from Colorado want them brought in the same relation with the United States that the

Territories occupy?

Mr. PATTERSON. The Senator from Colorado does not want them brought into it, but the party of the Senator from Wisconsin can bring them in. They should not occupy this extraordinary and unusual relation. They should either be in the Union or they should be an independent people, making their own laws and working out their own destiny. I am in favor of the latter attitude and condition for the people of the Philippine Islands, and I do not want to hold them as a constant menace to many of the industries as well as to the civilization of the United States.

Mr. CARMACK. Will the Senator from Georgia yield to me

for a moment?

Mr. BACON. With pleasure.

Mr. CARMACK. I simply want to make a request, as I do not expect to get into this debate, as I intended to have some matter printed in the RECORD.

Mr. BACON. If the Senator will pardon me a moment, I am about to conclude, and he can resume the floor on that question

and in his own time. It would come in better then.

Mr. President, I do not desire to continue the debate longer. I quite agree with the Senator from Colorado as to the wish I have relative to the relations of these islands with the United States. But that is not the question here. When the matter was before the Senate in a former session as to whether or not there should be a concession in the tariff rates, it will be remembered that some Senators declined to vote for that measure upon the ground that these people were entitled to free trade, and that to vote any tariff at all was a violation of their view of constitutional obligation. I believe that under the law they are entitled to free trade. I say that subject, of course, to the superior judgment of five out of nine of the judges of the Supreme Court of the United States.

But, Mr. President, this is, as I have said before, an existing condition. As I am not able to give them free trade, as I am not able to give them the best I wish that they might have, I will give them the best I am able, and therefore I am prepared to vote for whatever reduction it may be put in my power to vote for.

Now, Mr. President, one other word. It does seem to me that here are eight or ten million people. It is not a small question. I do not claim this as any special matter of prescience, but more than a year ago I wrote and published articles which anticipated this very condition of affairs. I was satisfied that a country which had been desolated and swept by war as they had been, with every-

thing destroyed which was necessary to administer to their everyday comforts, could not be a prosperous people, and while there were fictitious conditions then which gave a fictitious appearance of prosperity, the time was near at hand which has now come. and, Mr. President, when it has come with this vast multitude of starving people are we to let the present Congress adjourn without action upon the subject?

I say, Mr. President, that the highest moral obligation is upon us, not only to afford this relief, but to give them the opportunity to advance and to do what they may wish to avoid such an emer-

gency in the future.

Mr. HOAR. Mr. President-

The PRESIDING OFFICER. Does the Senator from Georgia vield to the Senator from Massachusetts?

Mr. BACON. With pleasure. Mr. HOAR. I should like to ask the Senator from Georgia what he understands to be the operation of this bill. Is this relief of the tariff on other products and the 50 per cent on tobacco and sugar likely, in his judgment, to make for a year or two any increased trade which will benefit that people in their distress?

Mr. BACON. I think that anything which will give any stimu-

lus to their industry will help that people.

Mr. HOAR. They are starving, they are without animals, they are without the means of cultivating their land, and now we say to them, if I understood the Senator from Ohio correctly, it will only be a few thousand dollars a year that it will increase their product for the present, and the Senator from Colorado said he thought so. What operation is the taking off of the United States tariff to have during the time when a man wants to buy these draft animals and wants to get some food to put in his mouth?

Mr. BACON. Will the Senator permit me?

Mr. HOAR. Will it save one human being from the agonies

of hunger?

Mr. BACON. If the Senator from Massachusetts will pardon me, there must be no misunderstanding on the question of the relation of draft animals to the work of the Philippine Islands. Of course the draft animals there play a very important part, but they do not play all the part in the agricultural industry of the country by any means, and not near so great a relation as draft animals bear in this country, owing to the fact that a larger proportion of the agricultural industry of that country is carried on by hand work.

At the same time there is a necessity and importance, of course. for these draft animals; but anything which stimulates the agricultural industry of that country, which gives them better prices, enables them to employ these poor people, and each man who is employed gives something to somebody else who has business re-

lations with him.

Mr. HOAR. That is all true, of course, but I am inquiring about the present relief for men who are starving. I do not understand that there is any stock of sugar or stock of tobacco or stock of anything else accumulated there now to be let loose or sold at once if we pass this bill. The Senator from Ohio, I think. said—somebody did in the debate—that it would be an improvement this year, a larger improvement next year, and larger the next. It is a permanent tariff policy now entered into for their benefit undoubtedly. I do not know that there is any objection to it, but how it is going to affect one starving man or woman is

what I want to know.

Mr. BACON. Of course, in a case of famine there has to be some other relief except the stimulus of industry, because there must be something of present benefit. I understand it is the purpose to devote a certain amount of money to that necessity. But, Mr. President, that does not in any way minimize or depreciate the importance of stimulating industries, so that while the starying and famishing people may be relieved to-day by charity they may in a month or two months or six months, as the case may be, to a certain extent be able to administer to their own wants.

Mr. HOAR. How does the Senator expect that if this bill passes there will be an increase of \$50,000 a year either in sugar or tobacco in their trade with this country next year, not this one? Does the Senator except, or does any Senator expect, that there will be an increase of \$50,000 a year of the imports to this country of either sugar or tobacco next year? That is what I want to know.

Mr. FORAKER. Mr. President-

The PRESIDING OFFICER. Does the Senator from Georgia vield to the Senator from Ohio?

Mr. BACON. Certainly.

Mr. FORAKER. If the Senator from Georgia will yield to me, I will read to the Senator from Massachusetts an answer to what he has said. It is what Governor Taft and his fellow-Commissioners said in their final report on November 1 last on this general subject:

We urge the reduction of the duties imposed on goods and merchandise imported into the United States from the Philippine Islands so as to make them not more than 25 per cent of the duties imposed by the Dingley law. The reduction of only 25 per cent, and the absurdly small effect of that reduction upon the trade between the islands and the United States, shown in the collection of little more than \$11,000 of duties in five months, demonstrates that if any benefit at all is to be conferred upon the Philippine Islands by such action the percentage of reduction must be largely increased. action the percentage of reduction must be largely increased.

That Mr. HOAR.

Mr. FORAKER. Will the Senator allow me to finish it? In just a moment I will have concluded reading, and then I will give way.

Mr. HOAR. I do not want the Senator to give way. I want

him to answer a question when he gets through.

Mr. FORAKER. I will finish, if the Senator will allow me.

Mr. HOAR. Certainly. Mr. FORAKER (reading):

We feel confident that a reduction of 75 per cent will not result in a dumping upon the American market of either tobacco or other commodities so as perceptibly to affect that market; while, on the other hand, the ability to sell in the markets of the United States will be of the greatest encouragement to the woefully depressed agriculture of the Philippine Islands, under the conditions which we have described. The reduction of 25 per cent, instead of being an aid to us in winning the good will of the Philippine people, if it is not followed now by further reductions, will lead them to believe that we are merely going through the form of a concession, which amounts, in fact, to no concession at all; that the United States is merely "keeping the word of promise to the ear and breaking it to the hope."

We think that a 50 per cent reduction will not give any substantial relief— We feel confident that a reduction of 75 per cent will not result in a dump-

That is my question exactly Mr. HOAR.

Mr. FORAKER. I am answering it. I knew it would answer the Senator; that is the reason why I persisted in reading itand that nothing short of 75 per cent will accomplish a useful purpose.

Just what the House made-

It is a mistake to suppose that the severance of these islands from Spain has made no difference in the markets to which their tobacco and sugar growers may look. On the contrary, with the separation from Spain, the sugar and tobacco growers have been deprived of markets which were of great assistance to them, and it seems only fair and just that the United States should substitute its own markets for the Spanish markets.

Now, Mr. President, that is what Governor Taft said on that subject. I believe thoroughly that he is right, and entirely right, about it. I believe that when we acquired the Philippine Islands, whether wisely or not, having cut off their markets in Spain and elsewhere, it became our duty to give them the benefit of our own markets.

It does not matter, Mr. President, how good a government we may organize, nor how good the men may be we send there to administer it, that government will be a failure unless that people are satisfied, and they can not be satisfied unless they have prosperity; and they can not have prosperity unless they have a market in which they can sell their products when they have

brought them forth.

Mr. HOAR. Now, Mr. President, that is exactly the point of my question and exactly the answer to it. Senators had stated two of them, I think—that this would do no substantial good to the Philippine Islands and would make no substantial difference to us. I asked the question whether the Senators thought that a reduction of 50 per cent would have any material effect in relieving the unhappy condition of things there, to which the Senator from Ohio answers in the language of Governor Taft, which he indorses himself, namely, that 25 per cent reduction has operated in an increase of trade of \$11,000 only, and has not done a particle of good; that 25 per cent more will not do a particle of good, but that on the contrary, 25 per cent more—being what this bill proposes—the intelligent Commissioner says, "If you do that and nothing more you will hurt the existing conditions, because the people will believe you are trifling with them, keeping the word of promise to the ear and breaking it to the hope, and you are not accomplishing anything at all."

So you have the warning of Governor Taft and the warning of the accomplished Senator from Ohio that this bill is going to do

mischief if not harm. That is exactly where we stand.
Mr. FORAKER. Will the Senator allow me? The Senator will remember, perhaps, or will at least recall when I remind him of it, that when we debated the Philippine tariff law which is now in force I insisted it ought not to be a reduction of 25 per cent, but a reduction of 75 per cent of the Dingley rates; that the rate ought to be 25 per cent, and that we ought to have that rate only because they needed a revenue there. Except only for the purpose of revenue, I would not have any tariff duty between the Philippine Islands and the United States any more than I would between Massachusetts and Maine.

Mr. HOAR. Now, what I think myself, though I wish to defer to gentlemen who have studied this question more than I have-

Mr. FORAKER. Will the Senator allow me to say just a word? Mr. HOAR. Allow me to finish my sentence. What I should like to do would be to have entire freedom of trade for what is coming in here, unless possibly some little administrative duty, but limited to a period of time, say five years—

Mr. FORAKER. Mr. President-

Mr. HOAR. By giving five years you can reconsider the matter under more favorable conditions.

Mr. FORAKER. I thank the Senator for that suggestion. It

had occurred to me that that might possibly be a way that would lead us to an agreement.

Mr. PATTERSON, Mr. President-

Mr. FORAKER. I want to finish before I am interrupted.

The PRESIDING OFFICER. The Chair will take the liberty of inquiring of the Senator from Georgia whether or not he has yielded the floor?

Mr. BACON. I will yield it to the Senator from Ohio. I had

about completed my remarks.

The PRESIDING OFFICER. The Senator from Ohio is rec-

ognized.

Mr. FORAKER. I am obliged to the Senator from Georgia. I wanted to remind the Senator from Massachusetts of the fact that the bill which is before the Senate is the bill as it came from the House. It passed the House with a provision that only 25 per cent of the Dingley rate should be levied on sugar and tobacco, and that everything else should come in free of duty.

Mr. LODGE. I beg the Senator's pardon. The House did not make anything free of duty. They made the rate 25 per cent on

everything.

Mr. FORAKER. Very well; I stand corrected as to that.

Mr. LODGE. We made everything free of duty except sugar and tobacco. I do not agree with the statements which have been made, but I am not going to debate it, because it simply consumes

time.

Mr. FORAKER. I do not know what statement I have made to which the Senator takes exception, and I would be obliged to him if he would call attention to it. What I want to say is that the proposition for 50 per cent reduction only is a proposition of the Committee on the Philippines of the Senate. So the question is, or will be when we get to that, whether or not we shall amend the bill that the House sent to us by increasing the tariff duties on sugar and tobacco they import into this country from the Philippine Islands to 50 per cent of the Dingley rates instead of leaving the duty at 25 per cent of the Dingley rates, as that bill provided.

Mr. PATTERSON. Mr. President, will the Senator from Ohio

yield to me?

Mr. FORAKER. Certainly.

Mr. PATTERSON. I wish to ask the Senator from Ohio whether he has given any attention to the cost of the production of sugar in the Philippine Islands and the cost of transportation

from the islands to the United States?

Mr. FORAKER. I have not studied that question so as to answer the Senator with any accuracy. I do know, however, that for this year it is estimated that there will be a production of not exceeding 10,000 tons of sugar in the whole Philippine Archipelago. Last year the production amounted only to 60,000 tons. There has been that reduction on account of the extraordinarily unfortunate condition that obtains there. When this matter was adverted to a few days ago in the Senate the Senator from Colorado said that some time in the past the annual production of sugar in the Philippine Islands had been as much as 400,000 tons. That may be true. It was much higher than I had supposed it had ever been. Mr. President, whatever may be the capacity, the Senator—

Mr. PATTERSON. Four hundred thousand pounds. Mr. FORAKER. Four hundred thousand tons.

ň, . .

Mr. TELLER. Four hundred thousand tons.

Mr. FORAKER. I do not remember to have seen such a statement, but I have no disposition to take issue with the Senator. I am very glad to hear that those people were able to produce 400,000 tons of sugar in the Philippine Islands under favorable circumstances, and I would be rejoiced if I could believe that at any time in the near future they would be able to produce there 5,000,000 tons of sugar, as the junior Senator from Colorado said in this debate this afternoon. It would show to us that there is a possibility for great prosperity in those islands, and that it would be a very sad miscarriage of our duty with respect to the islands if we were to so legislate as to make it impossible for a country of such capacity to have any prosperity at all.

Mr. PATTERSON. Mr. President, I should like to call the attention of the Senator from Ohio to the fact that at the present time it is not a question of the capacity of the islands for produc-

tion.

Mr. FORAKER. That is just what I am going to show, if the Senator will allow me.

Mr. PATTERSON. One moment. Let me get through.

Mr. FORAKER. Mr. President, I object to being interrupted

except by my own consent.

Mr. PATTERSON. The Senator from Ohio is the most per-

sistent interrupter on the floor of the Senate.

The PRESIDING OFFICER. Senators will please address the Chair.

Mr. PATTERSON. He always interjects in Senators' remarks. but objects when a Senator interrupts him.

The PRESIDING OFFICER. The Senator from Colorado will please address the Chair and get permission to interrupt the Senator on the floor.

Mr. FORAKER. Mr. President, Senators will know whether there is any warrant for such a statement as that just now made by the Senator from Colorado. I listened to him almost an hour this afternoon, and I did not interrupt him very much.

Mr. PATTERSON. I spoke in my own right. Mr. FORAKER. Yes: I know: in his own right certainly, and I am speaking, I hope, in my own right now. I do not object to being interrupted, but my objection was to being interrupted in the midst of a statement. I said to the Senator that if he would wait a moment I would give way to him. What I wanted to say was, Mr. President-

Mr. Patterson rose.

Mr. FORAKER. And I insist upon being allowed to say that,

and then I will yield to the Senator with pleasure.

The conditions in the Philippines are such that we know there can not be any production of tobacco or sugar there this year or next year or at any time within the next ten or fifteen or twenty years that would seriously conflict with any industry in this country if those articles were allowed to come in absolutely free

Therefore it was a wise suggestion on the part of the senior Senator from Massachusetts, in view of that which has been suggested here, if we can not otherwise agree, everyone recognizing the necessity of doing something for the present relief of those islands, that we limit the time that this law shall be in force. I think it would be well perhaps to do that. I am willing to limit it to five years or ten years, as may be thought wise. No man opposing this bill can successfully maintain the proposition that during that period there could come any injury to any industry in this country, and then we could determine whether or not we should further continue the law in force.

Mr. MALLORY. I should like to ask the Senator from Ohio a question before he takes his seat. I understood the Senator from Ohio to say that he thought the reduction of the rate of duty to 25 per cent, instead of 50 per cent, would result in no serious loss

to the revenues of the Philippine Islands.

Mr. FORAKER. I do not think it would. I do not remember that I made exactly that statement; but I think there would be more revenue collected at the ports of this country upon importations from the Philippine Islands with a tariff duty of 25 per cent of the Dingley rates than there would be if the tariff rates were 50 per cent.

Mr. MALLORY. I am inclined to think so myself, and I

should like to vote for such a proposition.

Mr. FORAKER. I am glad to know the Senator feels so dis-

posed.

I want to say that I think this is one of the most important measures pending before the Senate. I place it second to no measure which has been presented to us for consideration during this session, and I want to repeat what I said when I had the floor before this afternoon, that if we adjourn without taking any action of this character we should remember that it is an adjournment for a nine months' vacation, and it will be a pretty serious responsibility, in my opinion, that the Senate of the United States will assume in taking that action of letting those people, whose necessities we are now fully acquainted with, go without any relief, without any helping hand whatever from the Government, denying to them the right to trade in our own markets when it is conceded that they have not enough of anything that comes in conflict with our industries to prejudice those industries this year or at any time within the next five or ten years by any possibility.

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## United States Circuit Court,

WESTERN DISTRICT OF KENTUCKY.

TALBOT J. TAYLOR and JAMES B. TAYLOR,

Complainants,

No. 6935.

US.

THE SOUTHERN PACIFIC COMPANY and THE
UNION PACIFIC RAILROAD COMPANY,

Defendants,

Dejenaanis.

BEFORE HONORABLE HORACE H. LURTON.

Oral Argument of Mr. J. B. Foraker, at Nashville, Tenn., April 2d, 1903.

IF YOUR HONOR PLEASE: It was not to be expected that a suit of this character could be brought and prosecuted without meeting with a vigorous defense, but we were not bound to expect that the purpose of the complainants in bringing the suit would be aspersed, as has been done just now. What counsel, who has just taken his seat, has seen fit to say about the complainants and the character of the suit, coupled with what Mr. Humphreys said this morning, makes it proper, without apology on my part, to call attention to the fact stated in the bill that these complainants are bona fide stockholders; that they have been stockholders for some years and in large amounts, and to the affidavits filed yesterday that the complainants in this case were

the owners, at the time when this suit was brought, in their own right, of 130,000 and more shares, an aggregate of \$13,000,000; and that they held and controlled at that time in all more than twenty millions of this stock.

It is also shown by the affidavits that have been placed on file that, while there is a pool in existence, and for stock speculation purposes perhaps, yet that pool has no relation whatever to this litigation. This is not a suit brought by the pool, or at the instigation or for the benefit of the pool. This is a suit brought by Talbot J. Taylor & Company, a co-partnership, as minority stockholders, for the purpose of protecting their rights as stockholders against what they conceive to be a great wrong. They have come into this court of equity, therefore, with clean hands, and Your Honor is not asked to ally yourself with a stock speculation. You are not asked to become interested in a pool that speculators in New York may have seen fit to make up for purposes of their own; but you are asked in this case, as in all other similar cases brought by minority stockholders, to consider whether or not the complainants have presented a case that entitles them to relief. While, however, there is no relation between that pool and this suit-I won't stop to read the affidavits-while it is true that there is no such relation, yet, if Your Honor please, there is nothing illegal about this pool; there is nothing immoral about it. It is a combination made for legitimate circumstances—the agreement is set forth in the record; and that is not all-equity is not unkind toward a pool; on the contrary, if Your Honor please, equity invites it, under such circumstances as these.

What is the first averment of this bill, except only that these complainants as stockholders bring this suit on their own account and for the benefit of all other stockholders who may see fit to join with them and share the expenses of this litigation? They have a right to combine together for a common interest, purpose and cause, and come into the court and ask it to consider together the claims of all. They have a right to combine in a legitimate way, even to protect themselves in the stock market—for the stock market does not belong alone to Mr. Harriman and his associates, as a good many things here occurring tend to show that they perhaps think it does.

Neither have these complainants been guilty of anything that amounts to laches or estoppel. Your Honor very pertinently asked whether or not it was contended that they had done anything that worked estoppel upon them to prevent their prosecution of this suit. There can be no question of estoppel unless you have misled somebody to his prejudice. There is here nothing of that kind. The only thing that there can be any pretense of ground to criticise them for is the possibility of laches, but there is no laches here, if Your Honor please; for while the testimony shows that they voted at the meeting of the stockholders for the directors chosen in 1901 and again in 1902, yet the testimony also shows that during all this period they were under the impression, and had been put under that impression by those who represented the interests against which we are contending, that a policy in the management of the Southern Pacific would be resorted to and followed that would be satisfactory.

And now, too, my colleague, Mr. Lauterbach, is assailed here, before the court, by what are intended to be affidavits of severe criticism, but which, if Your Honor please, reflect upon him in the most creditable manner, for they show that he, on his own account, anxious, as his clients were, to avoid litigation, undertook to make peace instead of having war; that he talked in that behalf first to one and then to another; but the testimony also shows that he had no authority from Mr. Keene to make any terms or propositions. And the testimony shows especially that he never had authority from Mr. Keene to sell his stock, or Mr. Taylor's stock, or the stock of anybody else. On the contrary, the testimony is that Mr. Keene never placed any price on his stock, at any time to anybody; that he never desired to sell it, but purchased it for investment, and that, as a believer in this property, he intended to hold it. He has been anxious only that there might be a management of the property that would make it advantageous to him to be interested in that property.

That these complainants voted for these directors in 1901 and again in 1902, under such circumstances, only shows that while they were not satisfied with the policy that had been inaugurated, they were yet endeavoring to keep the peace, to avoid

litigation, to bring about a satisfactory agreement, one under which they would be satisfied. All that was commendable.

But if they had voted in that way without any such understanding, without having been misled into co-operation, at the stockholders' meeting, in the election of directors—if they had without any such consultation, or such understanding, co-operated and voted in that way, they would not be guilty of laches, much less estoppel.

I have here a case in point. I refer to the 51 La. Annual, page 833, State, ex rel James Jackson et al, v. Isidore Newman, Sr., et al. I read from page 839, as follows:

"We have given consideration to the contention of relators that because the N. O. Gas Light Company has been permitted to vote the stock held by it in past years, the other stockholders of the Jefferson City Gas Light Company are estopped from now denying its right to vote. But we can not give our assent to this doctrine

as thus broadly insisted on.

"It is public policy crystalized into law which denies it the right to vote, and what is against the law can not, in such a case as this, be legalized by acquiesence. Estoppels are not favored. Besides, there may have been no particular reason in the past for the minority stockholders to object to the vote; whereas at the recent election, when the expiration of the charter of the Jefferson City Gas Light Company drew near, and a liquidation of its affairs perhaps necessary, there may have been the best of reasons for objecting to the N. O. Gas Light Company electing a board of directors of its own choosing, especially so in view of the fact that it claims the right of succession to make and vend gas in that part of the city, and was likely to become a bidder for the property and effects of the outgoing company."

If Your Honor please, I want to now take up what I think is in the mind of every one here as the first legal question of this case, and that is the question of jurisdiction. When we were making preparation to bring this suit we examined that question with great care. We were of the opinion, as a result of that investigation, that the Union Pacific Company was not a necessary party to this suit—to be named as a co-defendant, and in that way brought before the court, but that it was, within the expressions of numerous cases, a proper party. If it desired to

come into court and make a defense in its own name the court might permit it to do so. We knew that unless it saw fit to come in voluntarily and make answer we could not compel it to come, and that this suit would have to proceed against the Southern Pacific, or that the court would have to dismiss the case because a necessary party, if it should be such, was absent from the case. We thought it was not a necessary party—not that the rights of the Union Pacific will not be affected if the relief we ask is granted: for rights of the Union Pacific will be affected—but we thought it was not a necessary party; I mean a party to be named as an independent defendant in the caption; we thought it was not a necessary party in that sense because, if Your Honor please, the Union Pacific being a stockholder is necessarily before the court whenever the company is. What is it, if Your Honor please, that has been sued in this case? The Southern Pacific Company. But what is the Southern Pacific Company? We have not brought suit against a name—and only against a name. We have not sued an intangible legal fiction; but we have sued the corporation that is designated by the name of the Southern Pacific Company, and the corporation is not the name, but it is the body of stockholders who, by that name, constitute the corporation, and by that name can sue and be sued.

If we were suing the Union Pacific Railroad Company and the Southern Pacific Company on a joint obligation which they had entered into in their corporate character and corporate names, and in the prosecution of their corporate business, we would be unable to maintain our suit, because we could not get service on the Union Pacific in this state and bring it into this court. Suing in that way would not bring it before the court as a stockholder of the Southern Pacific Company, conceding for the moment that it is a stockholder of the Southern Pacific. To bring in the Southern Pacific in such a case would not, of course, bring in the Union Pacific. But this is a different kind of suit. We are suing the Southern Pacific Company about the intra-corporate business of the Southern Pacific Company—about its management, its organization, its election of officers—a purely corporate act. We are suing it with respect to an election which is shortly to be held by the stockholders of that company; an election that is to be held in the district of Kentucky. And who are to be present at that meeting? The stockholders of the Southern Pacific Company—not some of them, but all of them, each and every one of them, no matter where they may in fact reside and no matter, either, whether they are natural or artificial persons. If the Union Pacific Railroad Company is a stockholder and votes, it must be there in person or by proxy—but how? Not as a railroad company, but simply as an artificial person who has chosen to become a stockholder of the Southern Pacific Company.

The point that I make is that whenever an individual or an artificial person, a corporation, sees fit to become a member of a corporation, a stockholder in any other corporation, it is a part of the contract of membership, a feature incident to the holding of that kind of property, that wherever and whenever that corporation is before the court each and every stockholder is brought there with it; for each is an integral part of the body corporate, and, therefore, if the Union Pacific Company sees fit to own stock in the Southern Pacific Company it ceases to be, in that respect, the operator of a railroad in Utah and in other states, and becomes simply an integral part of the Southern Pacific Company, to be bound by every decree, judgment, order or process that may be rendered against it or served upon it by a court of competent jurisdiction.

And especially and necessarily is this true as to a mere intra-corporate act such as the election of directors by the stockholders—a corporate act that is always subject to judicial supervision when wrongful voting is threatened, but which seldom could be thus supervised if each stockholder had to be separately sued as a co-defendant with the corporation and found within the jurisdiction of the court.

The idea is sometimes expressed that there is a corporate entity as contra-distinguished from the body of stockholders. You find that running through all the books; a corporate entity as distinguished from the body of stockholders; but that is what the books call a legal fiction. The very term is a recognition of the fact that the idea is not real or actual; that there are not two things in fact—a corporation and also a body of stockholders, There is, in fact, but one thing, and that is the corporation, and

the corporation is the body of stockholders. It is but a legal fiction, therefore, that there is a corporation separate and apart from the stockholders. This legal fiction is adopted for the sake of convenience and for the promotion of justice, but will never be allowed to defeat these purposes. The idea attaches to the name of the corporation, but the name is only the name in which the corporation can sue and be sued, in which it can take title to property, and pass title thereto, contract and be contracted with. In its name it can transact all its business, but whenever you come to a case where the recognition of the idea of a separate corporate entity will defeat the ends of justice the legal fiction falls to the ground.

What I am trying to express has been well considered in the 49th Ohio State, page 137, in the Standard Oil case. That was a case where the shareholders of a company formed a trust and the point was made that it was not the corporation, but only the stockholders that had gone into the trust. "The corporation has not done anything; the corporation has not deposited any stock; the shareholders have done it," said the defendant; but who are the shareholders? Say the court (I read from the opinion, 49 O. S., 177):

"The general proposition that a corporation is to be regarded as a legal entity, existing separate and apart from the natural persons composing it, is not disputed: but that the statement is a mere fiction, existing only in idea, is well understood, and not controverted by any one who pretends to accurate knowledge on the subject. It has been introduced for the convenience of the company in making contract, in acquiring property for corporate purposes, in suing and being sued, and to preserve the limited liability of the stockholders, by distinguishing between the corporate debts and property of the company, and of the stockholders in their capacity as individuals. All fictions of law have been introduced for the purpose of convenience and to subserve the ends of justice. It is in this sense that the maxim in fictione juris subsistit requitas is used, and the doctrine of fictions applied. But when they are urged to an intent and purpose not within the reason and policy of the fiction they have always been disregarded by the courts. Broom's Legal Maxims, 130. 'It is a certain rule,' says Lord Mansfield, C.-J., 'that a fiction of law shall never be contradicted so as to defeat the end for which it was invented, but for every other purpose it may be contradicted.' Johnson v. Smith, 2 Burr., 962. 'They were invented,' says Brinkerhoff, J., in Wood v. Ferguson, 7 Ohio St., 291, 'for the advancement of justice, and will be applied for no other purpose.' And it is in this sense that they have been constantly understood and applied in this state. Hood v. Brown, 2 Ohio R., 269; Rossman v. McFarland, 9 Ohio St., 381; Collard's Adm'r v. Donaldson, 17 Ohio Reports, 266.

"No reason is perceived why the principles applicable to the fictions in general, should not apply to the fiction that a corporation is a personal entity, separate from the natural persons who compose it, and for whose benefit it has been invented. One author seems to think that it has outlived its usefulness, that it is a 'stumblingblock in the advance of corporation law towards the discrimination of the real rights of actual men and women,' and should be abandoned (Taylor on Corp., Sec. 51). Among the many attempts that have been made to define the nature of a corporation, that given by Mr. Kyd, discarding, or at least not adopting, the metaphysical distinction of a legal entity separate from the persons composing it, is certainly the most practical, presenting as it does, the real nature of a corporation as seen in its constituents, and in the manner that it is formed and transacts its business. His definition is, 'a collection of many individuals united into one body, under a special denomination, having perpetual succession under an artificial form, and vested, by the policy of the law, with the capacity of acting, in several respects, as an individual, particularly of taking and granting property, of contracting obligations, and of suing and being sued, of enjoying privileges and immunities in common, and of exercising a variety of political rights, more or less extensive, according to the design of its institution, or the powers conferred upon it, either at the time of its creation, or, at any subsequent period of its existence' (1 Kyd on Corporations, 13. In brief then, a corporation is a collection of many individuals, united in one body under a special denomination, and vested by the policy of the law with the capacity of acting in several respects as an individual. 'The statement,' says Mr. Morawetz, 'that a corporation is an artificial person, or entity, apart from its members, is merely a description, in figurative language, of a corporation viewed as a collective body; a corporation is really an association of persons, and no judicial dictum or legislative enactment can alter this fact ' (see

his work on Corporations, Sec. 227). So that the idea that a corporation may be a separate entity, in the sense that it can act independently of the natural persons composing it, or abstain from acting, where it is their will that it shall, has no foundation in reason or authority, is contrary to the fact, and, to base an argument upon it, where the question is, as to whether a certain act was the act of the corporation, or of its stockholders, can not be decisive of the question, and is therefore illogical; for it may as likely lead to a false, as to a true result. Now, so long as a proper use is made of the fiction, that a corporation is an entity apart from its shareholders, it is harmless, and, because convenient, should not be called in question; but where it is urged to an end subversive of its policy, or such is the issue, the fiction must be ignored, and the question determined, whether the act in question, though done by shareholders, that is to say, by the persons united in one body, was done simply as individuals and with respect to their individual interests as shareholder, or was done ostensibly as such, but, as a matter of fact, to control the corporation and affect the transaction of its business, in the same manner as if the act had been clothed with all the formalities of a corporate act. This must be so, because the stockholders having a dual capacity, and capable of acting in either, and a possible interest to conceal their character when acting in their corporate capacity, the absence of the formal evidence of the character of the act, can not preclude judicial inquiry on the subject. If it were otherwise then, in one department of the law, fraud would enjoy an immunity awarded to it in no other."

If the corporation is here, before Your Honor, what is it? Is it but a name? Are not the stockholders here? Are they not to be bound by orders which you may see fit to make? Is not every stockholder, according to the nature of this contract of membership in the body, before the court to be bound by whatever may bind the company? If the Union Pacific Railroad Company sees fit to invest in Southern Pacific stock must it not step onto the same plane with all other stockholders, and be bound as they are bound?

In the 9th of Wheaton, page 904, it was held by Chief Justice Marshall, in the case of *The Bank of the United States* v. *The Planters' Bank of Georgia*, that the state of Georgia, becoming a stockholder in a bank, lost its sovereign character in

that relation, and stepped down from the high plane of sovereignty onto the common plane where stood all the other stockholders; and that it was not sufficient to oust the court of jurisdiction, as it was contended in that case should be done, to show that the state as such could not be sued in that action. Chief Justice Marshall said, in answer to that proposition: "You are not suing the state, you are suing a stockholder." And that's the way it is with the Union Pacific Railroad Company, if it is a stockholder of the Southern Pacific Company. We do not bring it into this court as a railroad company. We bring it in simply as an artificial person, which like any other stockholder must, as such, have its place of habitation in the state creating the corporation whose stock it owns, and we bring it into court by suing the Southern Pacific, just as we bring in citizens of every state in this Union, wherever they chance to be residing, who are stockholders of the Southern Pacific. The list in evidence shows three thousand names—some of them in Europe; they are scattered all over the world. Now, is it not true that when these stockholders hold an election in the state of Kentucky, each and every stockholder who participates is present in some form and that they are the corporation, and that when the court takes charge of that election, each stockholder in contemplation of law is before the court? And does not service on the Southern Pacific Company bind all with respect to that purely intra-corporate matter—a matter that pertains only to the Southern Pacific in its purely internal affairs?

There are many authorities to this effect. We have a brief here, in which they are collected. I can not stop to review all of them, but I call Your Honor's attention to the fact that the Supreme Court in the 131st United States, in the case of *Hawkins* v. *Glenn*, has so held. I read from the syllabus, page 319:

"In the absence of fraud, stockholders are bound by a decree against their corporation in respect to corporate matters, and such a decree is not open to collateral attack."

At page 329, Chief Justice Fuller says:

"A stockholder is so far an integral part of the corporation that, in the view of the law, he is privy to

the proceedings touching the body of which he is a member. Sanger v. Upton, 91 U. S., 56, 58, in which case it is also said: 'It was not necessary that the stockholders should be before the court when it (the order) was made, any more than that they should have been there when the decree of bankruptcy was pronounced. That decree gave the jurisdiction and authority to make the order.'"

The effect of all this is that the stockholder is an integral part of the body corporate, and that when the corporation is before the court the stockholders are also there, and that the decree or judgment that may be rendered binds each and every one of them, and that consequently we are not compelled to also bring them in separately and individually.

In this case of *Hawkins* against *Glenn* the contention was that certain assessments made against the stockholders were not valid because the court did not have the stockholders, who were assessed, present before the court as individual parties defendants. The court decided it was not necessary that they should be there in person, because they were there through the doctrine of representation; that the corporation stood for them, and defended for them, and that it was their duty to make their defense through it.

Our case is stronger than that, because it has relation only to corporate organization, and, therefore, only to purely intracorporate business. Hence it is that without further elaboration I insist that to have each and every individual stockholder here, all that is necessary is to have the corporation here by its corporate name, and that we have.

Now, if Your Honor please, counsel on the other side have cited quite an array of authorities, which they claim support their proposition. Let me speak of them—not all of them, for that is unnecessary.

The first case they cite, at page 6 of their brief, is the case of the Northern Indiana Railroad Company v. Michigan Central Railroad Company, 15 How., 233. From their statement of the case it appears that "an injunction was sought to restrain the construction of a road which the defendant had agreed with the New Albany & Salem Railroad Company should be built and op-

erated by the latter company. The complainants were Indiana corporations. The defendant was a Michigan corporation. The New Albany road was also an Indiana corporation, and was not made a party to the suit. It was held by the court that the New Albany road, being one of the parties to the contract, the performance of which the court was asked to restrain, was a necessary and indispensable party to the suit, and that the court, in its absence, had no jurisdiction of the cause." This statement, taken from defendant's brief, is enough to show that the case cited is wholly different from the case at bar. The case cited was a case of contract, and it was clearly indispensable that the Albany road should have a hearing before the relief could be granted, and there was no way to make it a party except only by directly proceeding against it. It was not a stockholder of either of the companies who were in court. Our case is wholly different. There is no question here of contract obligation. The parties against whom we ask relief, and who will be affected by the relief asked for, are stockholders, and, as such, represented by the company to which they belong.

I might run through all these cases to show, as Your Honor will find, that every one of them is, in point of principle, precisely the same as the one I have mentioned, except only two.

One of these is the Northern Securities case, 184 United States, page 199. We are told that this is the latest expression of the Supreme Court on this subject, and that it is conclusive of this case. But is it? The Northern Securities Company was a company organized under the laws of New Jersey, with power to acquire and hold the stock of other corporations. A majority of the stockholders of the Northern Pacific Railroad Company and the Great Northern Railroad Company turned over their stock to the Northern Securities Company in exchange for its stock, and the Northern Securities Company came, in that way, into the control of those two parallel and competing railroad companies. The state of Minnesota, learning that this company had been organized, and that this arrangement had been made, applied to the Supreme Court of the United States for leave to sue the Northern Securities Company. The Supreme Court held that

the two railroad companies, because of what was averred and prayed for in the bill, were necessary parties to that suit, and that the bill would have to be dismissed because they could not be brought before the court. Insofar as this case decides anything applicable to the question under consideration, it is a holding that it was not sufficient to bring the Northern Pacific and the Great Northern Railroad Companies before the court to sue their stockholder, the Northern Securities Company. Our case is the converse of that. Here we have brought the company before the court by its corporate name, and our claim is that by bringing the company before the court in that way, we bring the stockholders before the court; and that it is especially true that you can by suing the corporation bring its stockholders into court as to all purely intra-corporate matters, but we have never contended that by suing some individual stockholder you can bring the corporation of which he is a holder of stock into court. That, of course, can not be done, and that is the reason we did not go to Utah and there sue the Union Pacific. We could not in that way get jurisdiction of the Southern Pacific. And so, instead of commencing a suit against an individual stockholder in Utah, we commenced our suit in Kentucky against the company that issued the stock, and in that way and upon that theory we have sought to bring all its stockholders before the court, and, if we understand the authorities, we have succeeded in doing so.

The other case I have referred to, as cited by defendant's counsel, appears, at first reading, to support their proposition. I remark of it, in the first place, that it is the only case of the kind between the lids of the books that has been found. But, let us examine it. It is the case of Hollifield v. Wrightsville T. R. Company and others, 99 Ga., 365. We are told in defendants' brief that the very question arising here was there presented, and that it was there held that a court of equity had no jurisdiction to enjoin a corporation from receiving the vote of stock held by a competing corporation, unless that competing corporation, as the holder and owner of such stock, was present as a party defendant in the court. The syllabus of this case reads as follows:

"An equitable petition filed by a stockholder of a railroad company to restrain it from allowing certain

of its capital stock alleged to have been issued to, and to be held by and in the name of another railroad company, in violation of law, to be voted by the latter company, or by any person holding such stock for it, can not be maintained when neither that company nor its duly appointed receiver is made a party defendant."

From this paragraph of the syllabus it appears that the stock to be enjoined was in the hands of a competing corporation which had failed. It was in the hands of a court already; it was held by a receiver. From the petition it appears that the court was asked, not only to enjoin the defendant from receiving the vote of this stock, but also the following relief was prayed for:

- "3. That said issue of preferred stock be declared invalid.
- "4. That the Central Railroad & Banking Company be enjoined from voting or selling the same."

Before commenting on what the court says in its opinion, I call attention to the fact that we are not seeking to do so much in this case. We are asking that the Southern Pacific be enjoined from receiving the vote of this stock, but we are not asking to have the stock declared invalid, nor are we seeking to enjoin its holder from selling or disposing of the same, or from drawing dividends thereon, or from enjoying it in any other sense, except only as to the right to vote it. So far as the relief we ask is concerned, the holder of this stock can exercise with respect to it every right, except only the one right of voting it at this approaching election. The Georgia case was widely different, and the court in its opinion calls attention to this difference in the following language:

"The object of the petition is not to call in question any act of the receiver. Its object is to emasculate the stock of the Wrightsville & Tennille R. R. Co. held by him, in so far as concerns its right to be voted at and represented in corporate meetings. Its attack is upon the title of the receiver derived through the Central Railroad & Banking Co., and not upon any official act of his. It calls in question the power of the receiver to vote this stock in the corporate meetings of the Wrightsville & Tennille R. R. Co., and, if the prayer of the petition were granted, the practical effect of it would be to deprive the Federal Court of a property, the

possession of which it has seized in the due course of a judicial administration of the assets of an insolvent corporation."

Again the court says, in another connection:

"One of the objects of this petition is to practically divest the title of the Central Railroad & Banking Co. to the stock which is the subject-matter of this litigation.

. . . Where the judicial proceeding, as in the present case, undertakes to lay the ax at the root of the title under which the Central Railroad & Banking Co. claims this property, and to strip it of its assets, it occurs to us that it, too, is entitled to be heard upon the validity of its corporate act before that corporate act can be adjudged to be, as to it, ultra vires."

Your Honor will observe from all this that the relief asked in this Georgia case was far more drastic than anything asked in this suit. The stock there in question was an asset in the hands of the receiver, for the administration of which he was responsible to the court. The petitioners sought not only to enjoin the voting of that stock, but to cancel it, to divest him of title, to "emasculate" it, to have it held invalid on the ground that it had been illegally issued, and thus to make it perish in the hands of its holder.

It was because, doubtless, of this far-reaching and radical remedy that the court said the holder of the stock ought to have a hearing, and was, therefore, a necessary party. Such a case is not, I submit, a binding authority in this.

But there is more to be said of that case. It does not appear to have been well considered. There is no statement to show what was argued before the court, but it is manifest from the report that the point on which we here rely was not argued at all, or in any way referred to, or presented to the court; for there is nothing to indicate that the point was made with respect to that stock that the Central Railroad & Banking Company or its representative, the receiver, was necessarily before the court as a stockholder of Wrightsville & Tennille Railroad Company.

There is nothing to indicate that the doctrine of representation was ever thought of, much less discussed and considered. If the other reasons we have given did not exist, this alone would be sufficient to show that this case is not an authority that should be given weight against our proposition.

But these are all the authorities cited by counsel for the defeudants on this so-called jurisdictional question. If I have argued to any purpose I have certainly shown that not one of them is an authority upon the question now to be decided, and that not one of them is to the effect that in such a case as the present the Union Pacific is a necessary or indispensable party in its own separate right, even if shown to be a stockholder in its own name on the books of the company.

But now consider the facts of this case as established by the testimony. The averment of the bill is that the Union Pacific Railroad Company, to gain control of the Southern Pacific Company, acquired \$90,000,000 of the stock of the Southern Pacific Company, which it holds either in its own name or in the name of some other person or persons for its use and benefit.

The testimony establishes the truth of this averment as to the acquirement of the stock and the purpose of acquiring it, and shows that none of this stock stands in the name of the Union Pacific Railroad Company on the books of the Southern Pacific Company, but that 749,300 shares of it stand in the name of E. H. Harriman, and that the remainder of the purchase stands in the names of various individuals. For convenience sake I will speak only of Harriman. The stock list furnished by the defendant shows nothing to indicate that he holds this stock as a trustee or agent or representative of any kind, but the testimony shows that he holds it for the use and benefit of the Union Pacific Railroad Company, and, therefore, necessarily as its trustee, agent and representative. Such being the facts, the Union Pacific Railroad Company is not an indispensable, a necessary, or even a proper party defendant in this case, because, in the first place, it has no stock in its name, and, although the beneficial owner, having acquired the stock for an illegal purpose, and having sought to conceal its ownership by placing it in the names of individuals, to hold and vote it, equity should not allow it to be made a party defendant, even on its own application; especially not when we are not seeking to affect the validity of the stock, or the title thereto, but only to regulate the voting of it for organization purposes. If Mr. Harriman is good enough to be chosen by it to represent it on the books of the company and vote it at stockholders' meetings, thus assisting it to conceal its ownership and aid it in consummating its illegal purposes, jurisdiction of Harriman should be binding on the Union Pacific Railroad Company so far as action on this stock is concerned, for, after all, it is the stock about which we are concerned rather than individuals. At any rate the question is, not whether the Union Pacific Railroad Company is a necessary party to this suit, but whether E. H. Harriman is a necessary party, and, if so, whether he is not already before the court.

In considering his rights in this respect it should be borne in mind that he appears in this record in a most unenviable attitude. He is, as the holder of this stock, in complicity with the Union Pacific in its illegal acts and purposes, and this attitude is one that can not appeal to a court of equity for any special consideration. It shows him to be a tort feasor, and equity can not, therefore, be solicitous on his account.

But waiving all that for the moment, inasmuch as the stock stands in his name, he, and he only, can vote it. He is to be regarded, therefore, as the stockholder, for all the purposes of this suit, and he, we maintain, is before the court.

He has filed an affidavit for the defendant, of which I shall speak presently in another connection, in which he sets forth that he is a citizen of the state of New York. He can not in that way defeat the jurisdiction of this court, or show that he is not a defendant now before it on trial.

In the case of *Miller* v. *Dows*, 94 U. S., page 444, it was held, as stated in the first paragraph of the syllabus:

"A suit by or against a corporation in a court of the United States is regarded as brought by or against its stockholders, all of whom are, for the purposes of jurisdiction, conclusively presumed to be citizens of the state which created it."

Numerous other authorities might be cited to the same effect. But the proposition is so familiar that I deem that unnecessary. For the purposes of jurisdiction, therefore, E. H. Harriman is conclusively presumed to be a citizen of Kentucky. "Conclusively" means that the contrary can not be shown by either averment or proof.

Hence, this suit, being a suit against the stockholders of the Southern Pacific Company, and they being conclusively presumed to be citizens of Kentucky, the effect of suing and serving the Southern Pacific Company in Kentucky is to bring Mr. Harriman and every other stockholder before the court.

But that is not all. This same Mr. Harriman is the principal witness called by the defendant. His affidavit heads the list, and is a labored defense against the averments of the bill. At great length and in detail he undertakes to answer its statements and complaints, and he does all this for the sole purpose of showing that the Southern Pacific Company should not be enjoined from receiving his vote—a defense, in other words, of his own right as a stockholder, shown to be such by the stock books of the Southern Pacific Company, to vote this identical stock.

Is it possible for him to thus appear in the case and defend the case, which is rightfully made against him, through the corporate name of the Southern Pacific Company, of which he is a stockholder, and as such an "integral part," and yet not be before the court, to show what he has already shown, namely, why in his opinion his right to vote this stock should not be enjoined?

Must be in addition to being sued as one of the body of stockholders, through the corporate name, be also named in the caption of the bill as a co-defendant, to make his appearance as a witness, confer jurisdiction and have the effect of giving him his day in court?

And again, if he were so named and served, what more could he do in his defense than he has already done?

Does not his appearance to defend his right to vote show the wisdom of the law in holding that because of the privity of stockholders, and the necessary representation of stockholders by the corporation, when acting in its corporate name, it is not necessary to do the cumbersome and unnecessary thing of naming them as co-defendants? Co-defendants with a mere legal fiction—the corporate entity—a mere nonentity when stockholders are

eliminated—a co-defendant when he is already a defendant as an integral part of the body corporate—a co-defendant, therefore, in reality with himself, for that is what it comes to in the last analysis.

But authority as well as reason supports our contention. In the case of Wm. MacGeorge v. Capital Mfg. Co., 141 Penna. State, 575, it was held that—

"A defective service is cured by the appearance of the defendant and the filing of an affidavit by the defense. After that, it is too late for the defendant to allege he is not in court."

"Any pleading to the merits . . . . or by in any manner attacking plaintiff's case is a general appearance."

American Ency. of Pl. & Pr., Vol. II, page 636.

To some effect see Foote v. Mass. Benev. Ass'n of Boston. 39 Fed. Rep., 23.

The Standard Oil case, 49 O. S., 137, already cited, is in point.

That was a suit in *quo warranto*, but the rule as to indispensable parties was the same as here, and the judgment of ouster there rendered was the equivalent of the injunction here prayed for.

In that case, as already shown, a majority of the stock-holders entered into an agreement under which they selected trustees, to whom they transferred their stock in exchange for trust certificates, with power to the trustees to vote the stock at all meetings of the stockholders, draw all dividends paid by the company on its stock held by them, and in turn distribute the same as dividends on the trust certificates.

The court found that the stockholders were the corporation, and that their trust agreement was the illegal act of the corporation, and that the corporation should be ousted, not only from the performance, but from any recognition of the trust agreement, that the trustees should be ousted from all right to receive dividends on the stock of the company held by them, and that they should be ousted from the right to vote said stock, and that the stockholders should be ousted from receiving dividends ont

their trust certificates, and all this without a single one of the trustees or of the stockholders present as a party defendant before the court, in his own name. Nor did any one on the bench or at the bar seem to think that either trustees or stockholders were necessary, or even proper parties, manifestly, because the suit, being against the corporation in its corporate name, was regarded as a suit against the stockholders, and all of them, whereever residing, and that, in consequence, all of them were present before the court and bound by the proceedings against the corporation in its corporate name, because by that name they had agreed to sue and be sued as to all corporate matters, and especially all matters purely intra-corporate in character.

For these reasons, and upon these authorities, and others that might be cited, I submit this question and pass to a discussion of our case upon its merits.

Note.—Since the foregoing argument was made the Northern Securities case, argued at St. Louis, has been decided. The decree in that case affected the rights of the stockholders of the Northern Pacific Railroad Company and the Great Northern Railroad Company, as well as the rights of the Northern Securities Company. It required them to surrender their stock in the Northern Securities Company, and receive back the stock they had exchanged for it, making good in that behalf whatever difference in amount of stock, or in cash might be necessary to re-instate the *status quo*.

The defendants insisted that the stockholders so to be affected, estimated to be about 1,300 in number, were indispensable parties, but the court disregarded the contention and enjoined the Securities Company from voting the stock it held, and enjoined the Railroad Companies from paying dividends to the Securities Company on the stock it held, and enjoined the Securities Company from paying dividends on its own stock given in exchange for the railroad stock; and all this notwithstanding the fact that no stockholder of either of the three companies was a party defendant, in his capacity as a stockholder, in his own name and right.

The court manifestly adopted the views of the Attorney-General, who contended in his argument that his suit against the corporations, was a suit against the stockholders, each one of whom was an integral part of the corporation to which he belonged, and that, in that way, they were all before the court, and that it was unnecessary to bring them there also in any other way as individual parties defendant.



# Ohio Centennial Celebration

Chillicothe, May 20, 1903

#### **ADDRESS**

OF

## HON. J. B. FORAKER

"Ohio in the Senate of the United States"



## "Ohio in the Senate of the United States"

Is a sufficiently comprehensive subject to admit, with propriety, of an extended biographical sketch of each man who has held the office of Senator.

But, manifestly, it would require more time to do such a work properly than such an occasion as this will allow, and it would also, I fear, require distinctions and discriminations which might appear invidious.

In so far, therefore, as I may speak of individuals, it will be only incidentally in connection with their general services in the Senate or in connection with particular questions they had to consider.

Counting Garfield, who was elected but never qualified, Ohio was represented in the United States Senate during the first 100 years of her existence as a State by 30 different men.

The Constitution of the United States provides that the members of the Senate shall be divided into three classes.

Owing to the date of the admission of Ohio to Statehood, her Senators were assigned to the first and third classes.

The following table shows their names, political affiliations, the counties of their residence, and the date and length of service of each in the order in which their names are borne upon the roll of the Senate:

1st Class.

Residence.

Service

Politics.

Name.

| ташь.                                   | I Offices.          | Residence.  |         | Service.  |
|---|---------------------|---|---------|---|
| John Smith                              | Democrat.           | Hamilton Washington Ross " Belmont Clermont Jefferson | County. | 1803-1808<br>1808-1810<br>1810-1814<br>1814-1815<br>1815-1833<br>1833-1839<br>1839-1845 |
| Thomas Corwin Thomas Ewing              | Whig.               | Warren<br>Fairfield                                   | 66      | 1845–1850<br>1850–1851  |
| Benjamin F. Wade                        | Republican.         | Ashtabula   |         | 1851–1869   |
| Allen G. Thurman                        | Democrat.           | Franklin  | 6.6     | 1869-1881   |
| John Sherman                            | Republican.         | Richland  | 66      | 1881–1897   |
| Marcus A. Hanna                         |                     | Cuyahoga  | 44      | 1897-1905   |
| Thomas Worthington                      | 3rd Ci<br>Democrat. | LASS.   | 66      | 1803–1807   |
| Edward Tiffin                           | 66                  | 66  | 66      | 1807-1809   |
| Stanley Griswold                        | "                   | Cuyahoga  | 66      | 1809-1809   |
| Alexander Campbell                      | "                   | Brown   | 66      | 1809–1813.  |
| Jeremiah Morrow                         |                     | Warren  | 66      | 1813-1819   |
| William A. Trimble<br>Ethan Allen Brown | Federalist.         | Highland  | 6.6     | 1819-1821   |
| William H. Harrison                     | Democrat.<br>Whig.  | Hamilton  | 66      | 1822–1825<br>1825–1828  |
| Jacob Burnet                            | Federalist.         | "   | "       | 1828-1831   |
| Thomas Ewing                            | Whig.               | Fairfield   | 66      | 1831–1837   |
| William Allen                           | Democrat.           | Ross  | 66      | 1837-1849   |
| Salmon P. Chase                         | Republican.         | Hamilton  | 66      | 1849-1855   |
| George E. Pugh                          | Democrat.           | 66  | 66      | 1855-1861   |
| Salmon P. Chase                         | Republican.         | "   | "       | 1861-1861   |
| John Sherman                            | - 66                | Richland  | 66      | 1861-1877   |
| Stanley Matthews                        |                     | Hamilton  | "       | 1877-1879   |
| George H. Pendleton<br>Henry B. Payne   | Democrat.           |   | "       | 1879-1885   |
| Calvin S. Brice                         | 4.6                 | Cuyahoga<br>Allen                                     | 66      | 1885–1891<br>1891–1897  |
| Joseph B. Foraker                       | Republican.         | Hamilton  | 46      | 1897-1909   |
|   | 2. paonom.          | 220011110011  |         | 1001-1000   |

It will be observed that, of these 30 Senators, three—Ruggles, Meigs, and Tappan—were from eastern Ohio; one—Thurman—from central Ohio; seven of them—Griswold, Wade, Sherman, Garfield, Payne, Brice, and Hanna—from northern Ohio; while southern Ohio had the honor of furnishing all the other nineteen.

This apparent inequality of favor was largely overcome

by the long terms of service of Senators Wade and Sherman—one 18 years and the other 31 years—on account of which the aggregate number of years of Senatorial representation to the credit of northern Ohio was made approximately equal to that of southern Ohio.

From 72 counties of the State no Senator has been contributed, while one has come from each of the following 12 counties: Allen, Ashtabula, Belmont, Brown, Clermont, Fairfield, Franklin, Highland, Jefferson, Lake, Richland, and Washington; two from Warren, three from Cuyahoga, four from Ross, and nine from Hamilton.

Most of the men who have held the office of Senator from Ohio also held other offices and places of honor and distinction in the public service.

Two of them, Harrison and Garfield, reached the Presidency, and it is a noteworthy coincidence that both died while holding that office.

Morrow, Corwin, Sherman, Thurman, Pendleton, and Payne each served one or more terms in the House of Representatives.

Meigs was Postmaster-General in the Cabinet of President Monroe, and Ewing, Corwin, Chase, and Sherman each, in turn, held the office of Secretary of the Treasury.

Ewing served also as Secretary of the Interior, and the last office held by Sherman was that of Secretary of State.

Chase and Matthews gained seats on the Bench of the Supreme Court of the United States, one as Chief Justice and the other as an Associate Justice.

Tappan won distinction as judge of the United States Court for the District of Ohio, and Griswold filled with honor the office of judge of the United States Court for the Northwest Territory, to which he was appointed by President Madison.

By the Act of Congress of July 2, 1864, the President was authorized "to invite each State to provide and furnish

statues in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof and illustrious for their historic renown or for distinguished civil or military services, such as each State may deem to be worthy of this national commemoration," to be placed in the old Hall of the House of Representatives in the Capitol of the United States, which is set apart as a National Statuary Hall. Ohio is represented in that Hall by marble statues of Garfield and Allen.

Meigs, Brown, Burnet, Morris, and Thurman served as judges of the Supreme Court of Ohio, and Brown, Corwin, Pendleton, and Harrison all held high rank in the diplomatic service.

Worthington, Meigs, Trimble, Harrison, Pugh, Matthews, Brice, Garfield, Hanna, and Foraker all served in the army.

Harrison and Garfield were so conspicuous as soldiers that all are familiar with their achievements in that respect, while Trimble was noted among the men of his time for his chivalric deportment and dauntless bravery. He died, when he had only fairly entered on what promised to be a most brilliant and distinguished career in the Senate, from the effects of a wound received in action at Fort Erie. He was the only one of all Ohio's Senators who died while holding office. He was buried in the Congressional Cemetery at Washington, and his untimely death was mourned universally by the people of Ohio and all his colleagues in public life.

All but five were lawyers and successful practitioners, but of Burnet, Ewing, Tappan, Chase, Pugh, Thurman, and Matthews it can be truthfully said that they stood pre-eminent in their profession, without any superiors at the American Bar.

Few of the earlier Senators served more than one full term and some of them less; but Ruggles and Allen were notable exceptions, the first named serving three, and the second two full terms in succession.

Afterward came Wade with three terms, Thurman with two and Sherman with six elections to six full terms, aggregating 36 years, out of which, however, he gave 5 years to service in the Cabinets of President Hayes and President McKinley.

Of the earlier Senators, all were Democrats except Harrison, Burnet, Ewing, Corwin, and Chase, who were Federalists and Whigs.

Of their successors, Wade, Sherman, Matthews, Garfield, Foraker, and Hanna were elected as Republicans, and Pugh, Thurman, Pendleton, Payne, and Brice as Democrats.

Of the whole number, only Pugh, Matthews, Pendleton, Sherman, Garfield, Brice, Hanna, and Foraker—eight in all—were born in Ohio; but it may be remarked with pardonable pride that sons of Ohio, born in our State, have in large number been chosen to represent in the Senate other States of which they had become citizens. There are now in the Senate seven such Senators, making, with the two accredited to Ohio, a total of nine, or one-tenth of the whole membership of the body.

Turning now to their work in the Senate, we find it as interesting and instructive as it was serious and important. It does not seem to us, looking back through all the light that has since been shed, that it should have been a difficult question to determine that it was wise policy and within the constitutional power of the National Government to acquire the Louisiana purchase and from it create new States of the Union. But even the men who framed our Constitution and established our institutions and who were then largely administering our Government, differed widely and earnestly among themselves as to the proper construction of their own work, and it was only after exhaustive

and, in many instances, the most acrimonious debate that each step was finally taken.

We can scarcely realize that it required a long, hard, fierce battle of the giants of those days to establish the right of the National Government to aid and make internal improvements.

We are apt to think of the National Road only as a great, broad highway over which the lumbering stage coaches of that early time went rattling and clattering with their loads of mail and passengers.

But its construction involved vastly more than engineering skill and the expenditure of labor and money; for there, too, was raised again the question of governmental power so to apply public revenues, and over that men differed and debated and contended for years before the doctrine was finally established.

Our early Senators gave unfaltering support to the affirmative of all these questions, and Worthington especially distinguished himself, particularly in connection with the National Road, as one of the most conspicuous champions of the policy of internal improvements, rivaling in the credit that has been ascribed to him for what he did in that behalf, the work done by Henry Clay when, in later years, he challenged the attention and excited the admiration of the whole nation by the brilliant arguments with which he overthrew all its opponents, no matter whether they appeared in the debates of Congress or in the messages from the White House.

Tiffin and Ruggles, notwithstanding the attitude of their party, were efficient supporters of this policy. They did their full share to gain the ultimate acknowledgment, which was not to come until after their time, of the right, now unquestioned, of Congress to make appropriations for such purposes.

In thus contributing to the right settlement of these

questions of constitutional power, they were building far more wisely than they knew. They were working for our day as well as theirs. They were not only preparing for new States and providing for the construction of new roads and canals, but they were laying the foundations, broad and deep, for that greater America which is to-day our pride and the world's greatest light and greatest power.

They were developing the Constitution and, step by step, successfully asserting, what must now be conceded—that we are the equal in sovereign as well as physical power of any of our sisters in the family of nations.

The contest thus commenced and waged, as to the power of our Government to acquire additional territory, and create new States, and admit them as such into the Union, or hold and govern such territory as a dependent possession at the will of Congress, was all asserted, in principle, by what was involved in our acquisition and treatment of the Louisiana purchase.

The purchase of Florida, the annexation of Texas, the cessions from Mexico, and the acquisitions of Alaska, Hawaii, Porto Rico, and the Philippines and our government of them, have been only successive unfoldings of that same irresistible power and its all-comprehensive scope.

And so, too, in the establishment of the power of Congress to build roads and canals to facilitate commerce, the transportation of the mails, and the national defense, the way was prepared, unwittingly perhaps, but most carefully, for that governmental help without which the great transcontinental lines of railroad that unite the oceans could not have been built for years to come, if at all.

Without the settlement thus made of those questions, the Congress would be today without power to enact appropriate legislation to restrain and prevent the abuses and evils of unlawful conspiracies and combinations in restraint of trade and commerce among the States and with foreign nations, of which power and its beneficence we have recently had, in the various suits brought by the Attorney-General, such striking proof and demonstration.

What Edward Tiffin and Thomas Worthington and their associates did for Ohio in securing for it almost premature admission to Statehood, in framing its first constitution, and in enacting the wise legislation that set the State government in motion, was so well and worthily done that the millions who have come after them owe them a debt of gratitude they never can repay; but great and beneficent as was their work in that particular, infinitely greater and more beneficent still was the work done, largely by their help, when, in those early years of the Republic, at the hands of the Jeffersonian, States' rights, strict constructionists, who were then at the helm, our organic law was rightfully given a construction, and our National Government was properly invested with powers as broad as were ever claimed, or even dreamed of, by Alexander Hamilton.

The same may be said of their action in promulgating, as adopted, the constitution they framed for Ohio, without first submitting it to ratification by a vote of the people, and thus, to that extent, inaugurating government without the people's consent.

This precedent, so important to us one hundred years later, in dealing with our recently acquired possessions, was largely due to the fact that in the Electoral College of 1800 the vote had been a tie between Jefferson and Burr, and thus was created a political situation that made it seem imperative not only that there should be a new State, but also, and especially, that there should be three additional electoral votes that could be depended upon to support Jefferson's re-election. Such a situation did not admit of any delay in procedure or any chance of defeat for the program through regard for academic theories about popular

consent. The hard-headed Virginia pioneers who had the matter in charge were devout believers in the Declaration of Independence, but they recognized that it was "a condition and not a theory that confronted them," and that the way to do the work they had in hand was to do it, without wasting time or taking chances.

However, no matter what the cause that led to the national policies that were adopted and pursued, the fact remains that, with these early steps rightly taken, the premises were laid for all that was to come afterward; for the interpretation thus given to the Constitution made nullification a heresy and secession a crime—Jackson a hero, and Lincoln immortal.

But while the way in which we were to go was thus determined, it was not made easy. Men still differed, and great battles remained to be fought over the tariff, the United States Bank, the removal of its deposits, the establishment of sub-treasuries, concerning slavery, its aggressions and demands, its status in the Territories, the Missouri Compromise, the Fugitive Slave Law, States' rights, and the doctrine of secession—all finally culminating in the great Civil War, by the fires of which the nation was purified and by the blood of which the States were cemented into indissoluble union.

The march of progress through all the years of these fierce combats was constantly and irresistibly onward in the same general direction, but every foot of the way was stubbornly and bitterly contested.

It cannot be said that on all these questions Ohio's voice in the Senate was always on the right side, for that is not true; but it can be truthfully said that in all these struggles she was represented by able and faithful men who fearlessly strove to discharge their duty according to the dictates of patriotism as interpreted by conscientious convictions.

John Smith, whose name stands at the head of the list,

is the only one of the whole number over whom there was ever any cloud.

According to the most reliable accounts, he was a man of unusual ability, of the highest character, frank, openhearted, sincere, faithful in his friendships and in all the relations of life. He and Thomas Worthington were chosen at the first Senatorial election, and to him was allotted the long term of six years. The record shows that in the Senate he was a hard-working, able and capable Senator and statesman.

During a part of the time he sat in the Senate, Aaron Burr presided. With the acquaintance and friendship that followed, it was only natural that when Burr visited Cincin nati Smith should invite him to his house and entertain him as his guest. There was but little, if anything, more than this, except the fact that Smith, unwilling to believe in Burr's guilt, expressed belief in his innocence, on which to found the charge that he was a conspirator with Burr and Blennerhasset. A resolution to expel him on that account was defeated by a majority of only one vote, but added to this was a request from the legislature of Ohio that he resign his seat. All this so humiliated him that, with broken spirit, he surrendered his commission and retired to private life. An indictment was nollied for the want of proof, but he sank into his grave before there was any apparent change of public sentiment.

In his Notes on the Northwestern Territory, Judge Burnet says:

"John Smith, of Hamilton County, was scarcely excelled by any member in either House, in native talent and mental energy. Though he felt, very sensibly, the want of an early education, yet the vigor of his intellect was such as enabled him, measurably, to overcome that difficulty. His ambition to excel, urged him to constant application, and soon raised him to a fair standing among the talented and influential leaders of the day. In 1803, he represented the State in the Senate of the United States, and stood high in the confidence of Mr. Jefferson. Subsequently, however, his intimacy with Colonel Burr, put an end to all intercourse between him and Mr. Jefferson. When the Colonel was on his tour through the Western country, in 1806, he spent a week or two in Cincinnati. Mr. Smith was then a Senator, and had been a member of that body when Colonel Burr presided in it, as Vice-President of the United States. He, therefore, very naturally invited him to his house and tendered to him its hospitality during his stay in the place. This act of respect and kindness, dictated by a generous feeling, was relied on as evidence that he was a partizan of the Colonel, and engaged in his project. A number of persons then residing in Cincinnati, who were in constant and intimate intercourse with Colonel Burr, and who were universally believed to be engaged in his undertaking, whatever it might have been, deserted him as soon as the storm began to gather. Some of them figured in the trial at Richmond, in 1807, as patriots of spotless purity.

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"Mr. Smith was a firm, consistent man, not easily alarmed; he solemnly affirmed his belief that Colonel Burr was not engaged in any project injurious to the country, and refused to join in the outcry against him, or to aid in the measures that were taken to procure his arrest. The consequence was, he was denounced himself, and a bill of indictment found against him, which was, however, abandoned without an attempt to bring him to trial."

Worthington and Tiffin were men of rare qualities. They were educated, refined, cultivated gentlemen, yet strong, robust and aggressive pioneers. They had a vigorous spirit of Americanism and were ambitious for Statehood and participation in national affairs. Both did good work for Ohio and the whole country in the Senate and outside of it.

Morrow and Campbell were plain unassuming men, noted for their integrity, sound common sense, and good judgment as to all public questions. They were faithful and unselfish in their devotion to public interests and commanded and merited universal esteem.

Jacob Burnet and Benjamin Ruggles had opposing party affiliations. They were men of great intellectual power and long experience in public affairs. They were both imbued with the loftiest spirit of patriotism and the finest sense of honor with respect to official duty.

We forget their differences in the tribute we pay to their memory and the appreciation we entertain for the great honor they reflected on their commonwealth.

Thomas Ewing and Thomas Morris were colleagues; one a Whig and the other a Democrat. They were both strong, self-made men. They were both lawyers of the highest standing in their profession. They were both men of positive convictions, and both were ready and able in debate.

They differed about the great questions they were called upon to discuss. They were not both right, but they were both honest. They stood for that in which they and their parties, respectively, believed, and by their powers of logic and eloquence aided in the development of the truth that ultimately found expression in the laws and policies of the nation.

It was Mr. Ewing's fortune to live to and through the Civil War. His great abilities, high character and well-merited reputation for calm judgment and unselfish devotion to the public good made him a conspicuous figure in the political controversies of that turbulent period.

There was much disappointment among Republicans because he did not ally himself with their party when it organized and made its first contest for the Presidency, but his conservative course made him all the more powerful to help when in 1860 he threw the weight of his great name in favor of the election of Mr. Lincoln and afterward zeal-ously supported the Union cause.

He had the satisfaction of seeing all he predicted of Mr. Lincoln fully vindicated, the cause he so earnestly espoused triumphantly successful, and with it all his own family most uncommonly honored. Three sons became distinguished General Officers of the Union Army, and his son-in-law was the second of that immortal trio of the nation's defenders—Grant, Sherman, and Sheridan.

It was the lot of William Allen and Thomas Corwin to serve together for a time. They had dissimilar qualities and characteristics. Both were able men and intense partisans, who proclaimed without fear or qualification their respective views on all questions of their day. They could not agree with each other, and we cannot agree even yet, perhaps, with either that he was right, but we do agree that both of them thought they were right, and that whether either was or not wholly right, yet both won honor and distinction for their State by the ability they displayed and the respect they commanded.

Corwin was such a unique character that more should be said about him. He was a natural orator of inimitable style. He had a never failing fund of genial humor and pleasing anecdotes with which to entertain and illustrate.

When engaged in campaign work thousands flocked to hear him. His progress was like a triumphal march, and every speech was the occasion for an ovation. The mere announcement that he was to argue a case was sufficient to uncomfortably crowd the court room.

To listen to him was to be instructed as well as entertained. He did not have a collegiate education but he seemed to be familiar with all fields of knowledge. Art, science, literature—especially the Bible and the Classics—were all equally at his command and he made liberal drafts upon them to elucidate and embellish his arguments.

He interrupted and well nigh ended his public career by a speech in the Senate in opposition to the Mexican War in which he made the famous declaration that if he were a Mexican as he was an American he would welcome our soldiers with bloody hands to hospitable graves.

The great majority of the Whig party to which he belonged, and of the Republican party that succeeded the Whig party sympathized with the sentiment he expressed, but notwithstanding this sympathy and his great popularity the suggestion of possible hostility to the American Army when engaged in an international war was so unpopular that it destroyed his availability as a leader until years had passed and his opportunity was gone.

Chase and Wade served together from 1851 to 1855. A greater contrast could hardly be suggested. They were in harmony with each other on the great, all-absorbing question of that period, but their tastes, accomplishments, and habits of thought and speech were so widely different that each had a distinct personality that reflected his own particular influence and marked him as a great, strong, individual factor in the tempestuous strife of the hour.

The best services of Chase were rendered as Secretary of the Treasury; and in connection with that office and as Chief Justice he will be identified in history rather than with the Senatorship or the Governorship. He was not in harmony with any party on the slavery question while a member of the Senate but so far in advance of all that he was powerless to accomplish anything on the lines where he was strongest and most interested. His opportunity was to come later.

George E. Pugh was one of the youngest but one of the most brilliant representatives Ohio has ever had in the Senate. He was not yet 32 years of age when elected but he had already distinguished himself at the Ohio Bar and served a term as Attorney-General of the State.

He was a Stephen A. Douglas, Squatter-Sovereignty

Democrat, and second only to Mr. Douglas, if second to anyone, was the ablest advocate of that doctrine.

In the National Democratic Convention of 1860 at Charleston he made the speech that divided his party into Douglas and Breckenridge Democrats and thus assured the election of Abraham Lincoln.

The Civil War marks the beginning of a new epoch in American politics. The advent of the Republican party to power meant, naturally, a change of policies; but the sudden outbreak of the rebellion made mere opportunity a commanding necessity, and, in addition to measures to raise armies and save the Union, precipitated legislation that might otherwise have been only gradually arrived at, affecting radically our economic system and general industrial and financial conditions.

New and untried paths were entered upon. They would have been difficult to tread under the most favorable circumstances, but, attended as they were, by war, they were especially hazardous. Volumes have been written, and other volumes will be written without exhausting the story, of how, as the defenders of the nation marched forth to battle, the statesmen at Washington with a full appreciation of their responsibilities, took up the Herculean labors that devolved upon them and so legislated as to make available the resources of the country, provide a currency to meet the almost unmeasured demands upon the public treasury, reorganize our banking system, and, in the very midst of apparent national dissolution, multiply our industries, create business activity, and a greater prosperity and higher credit than we had ever before enjoyed.

The popular heroes of that struggle, as of all others, were the successful soldiers who won battles. But, equally, were they also heroes who, with an abiding faith in the nation's cause, and the nation's strength, and the nation's wealth, and the nation's patriotism, thus wisely and unflinchingly did their duty in the civil service.

The Army saved the Union, but they saved the Army.

It was a great work, and the lapse of time has only increased appreciation for it.

Ohio was foremost in it all. No State did more. Few did so much.

Senator Wade was then a Senator of long experience. He had been a member of that body ten years. They were ten years of political strife, of fierce, ugly intellectual combat—at times, almost physical combat. Angry passions ruled the hour, and personal violence was constantly apprehended and occasionally witnessed.

Wade was a rugged, sturdy, uncompromising character who detested slavery and unsparingly condemned it and all measures proposed in its behalf. In consequence, he incurred the ill-will of the pro-slavery Senators, and was almost constantly the object of their attack. He was aggressively defensive, and thus, naturally, became one of the leaders of his party. When the war commenced, he was made Chairman of the Joint Committee of the two Houses on the Conduct of the War, a position that gave him exceptional opportunity to utilize his experience and display his abilities. He improved his opportunity to the utmost, and, in doing so, proved a veritable pillar of strength to the Union cause. He labored in season and out, and always with the greatest efficiency. An adequate review of his services during this period would involve a review of almost the whole great struggle. He became a great national figure and thus brought our State into still greater prominence.

When the war was over and reconstruction was undertaken, the usual reaction occurred in political sentiment. This had the effect in Ohio of giving the Democrats a majority in the legislature elected in 1867, and that major-

ity chose Allen G. Thurman to be the successor of Benjamin F. Wade.

In many respects there was a striking resemblance in the characters of these two men. Both were strong men physically; both were rugged and sturdy in thought and speech; both were plain and direct in argument, and both despised all kinds of cant, pretense, hypocrisy, and evasion. They excelled in frank, open, manly sincerity and candor. Both were partisans; not in a narrow, but in that broad sense that regards parties as necessary political agencies in the administration of popular government. Each believed in his party and aided to maintain its organization and uphold its discipline. Both believed that party mistakes should be corrected, but that party defeat was not occasion for dissolution or despair.

Thurman not only possessed all these natural qualities, but, when elected, he already had a ripe experience. He had seen considerable public service, and was known everywhere as a profound constitutional lawyer. It was not only natural, but inevitable, that such a man, entering the Senate from a great State and with the prestige of having defeated such a leader as Wade, would immediately take high rank in the councils of his party. It, therefore, oceasioned no surprise when, by common consent, he was accepted as the leader of his party in the Senate, almost from the day he became a member. He sustained himself in that leadership throughout the 12 years of his service there, notwithstanding there were no national victories for Democracy during all that period, beyond an occasional majority in the House of Representatives that imparted temporary hope, perhaps, of greater things to come; but, as the sequel showed, only to be again and again deferred, until the Democratic heart was, indeed, made sick.

So far as partisan questions were concerned, he was, during that period, all that his party was, and nowhere can

be found stronger advocacy of its claims for power or more complete defense of its positions and purposes than in his speeches in the Senate.

But he was more than a party leader. He rendered service of the most important character to his country in connection with the Union Pacific Railroad Funding Bill, by the provisions of which that road was made to keep faith with the Government, and the Government's claims were fully protected and finally fully realized. To him, more than to any other man, is credit due for the enactment of that measure.

He held the Chairmanship for a time of the Judiciary Committee of the Senate, and was a member of the Electoral Commission that determined the Hayes-Tilden Presidential dispute. He was universally esteemed by all who knew him, Republicans and Democrats alike, as a man of irreproachable integrity and an able and fearless champion of his convictions.

At the end of this second term, the political pendulum in Ohio swung again to the Republican side, and the legislature elected John Sherman to be his successor.

Sherman had for his colleagues during his long term of service not only Wade and Thurman, but also Pendleton, Payne, and Brice.

Pendleton was one of the most accomplished men of his time. He was a polished speaker. He had engaging manners, decided ability, and a good name in every sense of the word. He was never severe or acrimonious in debate, yet was sufficiently partisan to be constant and zealous in the support of his party and the advancement of its policies. His greatest work was as the successful advocate of our first Civil Service legislation. That legislation has been severely criticized, but it has never been repealed, and never will be. Amended and improved it will continue to stand as his greatest monument.

Payne had been prominent in his party for years. He was its candidate for United States Senator when Wade was first elected in 1851, and its candidate for Governor against Chase in 1859, when he was defeated by only 503 votes.

He was a Democratic member of the House of Representatives in the 44th Congress, and Chairman of the House Committee that acted in conjunction with a like Committee from the Senate in devising the Electoral Commission for the settlement of the Hayes-Tilden Presidential dispute.

He was quiet and modest in manner, and made but few speeches, but he was so wise in judgment that his advice was sought and followed to such an extent that he exerted an unusual influence upon his party associates, and, in nonpolitical matters, upon men of all parties and measures of all kinds.

He entered the Senate late in life, when his party was in the minority, and when, on that account, there was little opportunity for him to add to his reputation.

Brice was young and buoyant, of sanguine disposition, always bright, versatile and charming. He was exceedingly popular on both sides of the Chamber. He had a faculty for large affairs and was unusually successful in business. He might have participated in the debates with much credit to himself, but he preferred the more quiet and less frictional work of the Committee, where his power and influence were fully felt and recognized.

It is no disparagement of anyone and no exaggeration of the truth to say that, of all the many able men who have represented Ohio in national affairs, John Sherman is *facile* princeps.

Others reached the Presidency, and some of them, through fortuitous circumstances and opportunities, may have attained greater popularity and a more commanding place in history, but no other stood so long on the "perilous heights."

No other was tried in so many ordeals. No other was called upon to deal with so many and such difficult questions. No other showed such varied powers of adaption to rapidly changing and widely different conditions, and no other so completely and uninterruptedly commanded the confidence and enjoyed the respect of the whole American people as a wise, safe and capable leader and statesman.

He had a tall and commanding figure—not a magnetic, but a pleasing personality. He was a man of conservative temperament, considerate judgment and affable manners.

He had a strong intellectual endowment, clear conceptions, and great powers of logic and analysis. His voice was agreeable, and his speech easy and fluent. His arguments were plain, direct and convincing. He commanded attention, and easily held it. No one could remain within the sound of his voice while he was speaking, no matter what his subject, without following his remarks.

He too was a self-made man. He was of the plain people and always had their sympathy and support. He was born poor but had a sound constitution, and was proud to earn his own living. He commenced as a rodman in an engineering corps, but he advanced rapidly. He acquired a good education, read law, was admitted to the bar, and finally entered public life in 1854 as a member of the 34th Congress, admirably equipped for the great work and the great career before him.

The slavery question in general, and the Kansas-Nebraska question in particular, then held public attention. From the first he took and held high rank as a leader and a debater.

When the war came he was thoroughly prepared for his part.

Entering the Senate on the 4th of March, 1861, he carried with him from the House an experience and a prestige

that gave him rightfully a place in the front rank of his colleagues.

It is impossible and unnecessary to relate here his services during the thirty-six years that followed until the 4th of March, 1897, when he resigned his seat at the request of President McKinley to accept the office of Secretary of State. They are so interwoven with the history of our country for that period that all are familiar with them.

It is enough to say that to him more than to any other man the American people are indebted for the sound currency, the safe and adequate banking facilities, and the general improvement of our fiscal system by the adoption and development of those economic policies, under which our country has so developed and prospered.

His most pronounced triumph was in connection with the resumption of specie payments in 1879, but his services in that respect were only in keeping with his record throughout. He was given special credit in that instance not because his labors in that particular were exceptional, but because they were practical and apparent. While he will be most remembered for his services in connection with the finances of the country, yet they were only a part of his work.

In the troublesome and trying days of reconstruction he was untiring.

As a member of the Committee on Foreign Relations, the Pacific Railroads and the Judiciary, he was constantly engaged in the consideration of grave questions and great measures.

Many statutes bear testimony to his far-sighted wisdom as a legislator. One of the most important was one of the latest.

It shows how clearly he understood the progress of changing conditions and the legislative remedy to apply to correct apprehended evils and abuses.

He was among the first to see the enormous combinations of capital we have been witnessing and the temptation there would be to unreasonable restraint and monopoly, and before others realized the danger or comprehended that any legislation was necessary or even appropriate he had secured the enactment of what the whole country has recently become familiar with as the Sherman Anti-trust Law of 1890.

He gave himself up wholly and devotedly to his work, so much so that he probably did himself an injustice by the consequent neglect thereby occasioned, to some extent, at least, of social duties and relations.

He was for years, without regard to his own desires in the matter, considered a leading candidate for the Presidency. His name was repeatedly presented to National Conventions for the nomination. That honor was denied him, but there never was a time when the whole country did not feel that he was well equipped and well entitled to hold that high office. He will rank in history with Webster, Clay and Blaine.

For obvious reasons I shall leave to some future orator who may have occasion to speak of "Ohio in the Senate" an account of the work done by the present incumbents. I take advantage of this opportunity however to inform him in advance that if he shall be able to say of them that they earnestly strove to emulate the examples of their illustrious predecessors that, in their opinion, will be the highest character of compliment and praise.

#### SPEECH

50,000

OF

## SENATOR FORAKER

AS

PERMANENT CHAIRMAN

OF THE

### Ohio Republican State Convention

AT

COLUMBUS, OHIO, JUNE 4, 1903

Senator FORAKER, on being introduced by Senator Hanna as the permanent chairman, said:

Gentlemen of the Convention: This is Hanna's year (applause). Yesterday was, in an especial sense, Hanna's day (applause), and he improved it to the utmost. He made our keynote speech, and I do not hesitate to say it was one of the best I ever heard in any convention (applause). It was so complete that it leaves nothing for anybody else to say. Certainly nothing for anybody else to say after we add all that has been said in the prayer to which we have just listened, which was one of the best I ever heard addressed to any convention. (Laughter.)

"I intend, gentlemen of the convention, in view of all this, to content myself with thanking you for the honor of presiding over your deliberations and briefly reminding you that we have three great duties before us to discharge; all of them important and serious, but easy to perform. In the first place, we have the duty of nominating here to-day, and electing in November next, Myron T. Herrick to be governor of Ohio (applause). Surely that will be easy. It will be easy in the first place because this is a Republican year anyhow, and in the second place because of the splendid

manner in which he will do his part of the work. He is yet a young man comparatively, in the very prime and vigor of physical and mental manhood. He is a man of the highest character; he has a familiar knowledge of public affairs, public questions and public men; he is well qualified to be a great leader in a great party in a great State, in a great campaign (applause). We will elect him in November, and then as our reward he will give us one of the best State administrations the people of Ohio have ever enjoyed.

"Our second duty is broader, more important, more serious, but easier still. It is that of electing Senator Hanna to be his own successor (applause). That is so easy that if let alone it will do itself (laughter). But we are not going to let it alone. We are going to help do it, Senator Hanna (applause), and we are going to help do it because you deserve it at our hands that we shall do it (applause). We are going to do it because Senator Hanna, during the last six years, has rendered distinguished and conspicuous service for his party and his country in the Senate of the United States (applause).

"I could not help thinking as he stood upon this platform yesterday making that splendid address how differently he is regarded by his countrymen to-day from what he was when he went into the Senate. At that time there was hardly a newspaper in the country, not even in his own party, that did not seem to take delight in saying unkind things about him—cartooning him, abusing him, lying about him. The storm was such that only a most uncommon man could have withstood it; but he was an uncommon man, and he did withstand it; it did not hurt him. Conscious of his own strength, he simply "stood pat" (applause), biding his time. He went to work in the Senate quietly and unostentatiously, but zealously and so efficiently that it was only a short time until he commanded the respect of every man in that body, Democrat as well as

Republican (applause). It was only a short time until he saw virulent enemies turning to admiring friends; until he saw detraction and disparagement giving way to compliment and praise; until he saw abuse giving way to laudation; and thus he went on, step by step, rapidly, until he took his place where he stands to-day in that body—in the very front rank of its most influential members, no one there doing more than he to fashion the policies of his party and determine the laws of the Nation. Every step of that advancement was attended with credit to his State and credit to his country. It is for reasons of that kind that we intend to give Senator Hanna our endorsement here to-day and our commission again next January when the Legislature meets. And so we intend to keep on re-electing him from time to time as long as he lives, and we hope he may live forever (laughter and applause).

"The third duty to which I have referred is yet broader, more important, more serious, but if possible, easier still, if anything could be easier, and that is to elect Theodore

Roosevelt to be his own successor (applause).

"We intend to do this because he, like Senator Hanna, merits that honor. He has fairly won it. He entered upon the duties of the Presidency under the most trying circumstances. There were many who doubted his ability to succeed, many who predicted failure, but to-day it can be truthfully said that he has not only met, but he has surpassed the most sanguine expectations of his most confident and his most ardent friends (applause). The people of this country have come to know him, because of the works he has done, as a man of brains, as a man of courage, as a man of purpose, as a man who is fearless in the discharge of his duty (applause). Quick he is of conception; it has been said, 'quick on trigger,' but it can also be said that he is a sure shot (applause). He hits the bull's-eye|every time (applause), and he will hit the bull's-eye in 1904 (applause).

I do not hesitate to speak in this manner at this time, because we are all agreed that next year he is to be our candidate, and that next year we will triumphantly elect him to the Presidency to continue to administer Republican policies and bring honor and glory to the Nation. It is a subject of congratulation, my friends, as we here to-day enter upon the initial battle of 1904, that the Republicans, not only of this State, but also of the whole country, should be united, as they will be upon policies, purposes, aspirations and ambitions. We are not halting or doubting about any policy; we are not divided about any question; but look at the ranks of the Democracy. They are all broken. Half of them don't know whether they are yet for free silver or not (laughter). Half of them don't know whether they should be for free trade or against it; and as we are united about questions, so too, are we united about candidates, the candidate for Governor, the candidate for Senator, and the candidate for President, while they are not united anywhere upon any man. Byran does not want Cleveland and Cleveland does not want Bryan, and neither one of them wants anybody else (laughter and applause). But that is perhaps as well as any other way, for it doesn't make a bit of difference whom they nominate. We will do as Senator Hanna suggested yesterday. We will declare anew our belief in our principles and purposes, nominate our candidate and go straight forward, and if they don't get out of the way run over them (applause).

"I, too, like Senator Hanna, congratulate you upon this magnificent convention, one of the best we have ever had, one of the most representative. It shows that the Republicans of Ohio are alive in their appreciation of the importance of this campaign, and that they propose to elect in November the ticket you nominate here to-day.

"I will not further detain you but inquire at once, what is the pleasure of the Convention?"

# United States Circuit Court of Appeals

FOR THE SIXTH CIRCUIT.

TALBOT J. TAYLOR and JAMES TAYLOR,

Appellants,

vs.

THE SOUTHERN PACIFIC COMPANY and
THE UNION PACIFIC RAILROAD COMPANY,

Appellees.

peal from Western Division, District of Kentucky.

## BRIEF

of

# Mr. J. B. Foraker for Appellants.

This is a suit by minority stockholders of the Southern Pacific Company, a Kentucky corporation, for equitable relief by injunction against the Southern Pacific

Company restraining it from-

(1) Receiving the vote of 900,000 shares of its stock held by the Union Pacific Railroad Company, a Utah corporation, or in its interest and for its use and benefit, at the annual election of directors to be held by the stockholders of the Southern Pacific Company in the State of Kentucky in accordance with the by-laws of the Company on the 8th day of April, 1903, and

(2) From selling or otherwise disposing of the capital stock and the lease, or either, both of which it owns and holds, of the Central Pacific Railroad Company, a Cali-

fornia corporation.

The bill also prays for an order directly enjoining the Union Pacific Railroad Company from voting such stock at said election.

The Southern Pacific Company and the Union Pacific Railroad Company are named in the bill as co-defendants.

The record shows that process was issued for the Union Pacific Railroad Company, and returned "not found".

The application was made for an injunction, as prayed for, on bill, answer, and affidavits, and was by agreement treated as a final hearing upon the pleadings and evidence.

The Court found and held upon the pleadings and evidence that the Union Pacific Railroad Company was an indispensable party, without which the cause could not proceed against the Southern Pacific Company to enjoin it from receiving the vote of the stock in question; and the Court further found and held as to the second ground of relief that inasmuch as the Southern Pacific Company in its answer denied that it had any intention of selling or otherwise disposing of the stock and lease, or either, of the Central Pacific Railroad Company, there was no proof before the Court to warrant an injunction in that respect; and thereupon dismissed the bill, but, in view of the appeal taken by the complainants, ordered that the stockholders' meeting for the election of directors of the Southern Pacific Company should be postponed until the appeal is heard and disposed of.

The complainants appealed and assigned for error these findings and holdings and this order of dismissal.

The pleadings and the evidence show that the Southern Pacific Company owns in most cases the entire capital stock, in others a majority of the capital stock of a number of constituent railroad companies, and that it has connected their roads into one line which it is operating, known as the Southern Pacific Railroad, extend-

ing from New Orleans through Texas, Southern New Mexico, and Southern Arizona to Southern California, thence north to San Francisco, thence to Portland, Oregon, and also from San Francisco, by the Central Pacific, of which it owns the entire capital stock and the lease mentioned, to Ogden, Utah, where it connects with the western terminus of the Union Pacific.

The pleadings and testimony further show that the Southern Pacific connects at both New Orleans and Galveston with steamship lines between those points and New York, which are owned and operated by the Southern Pacific Company, and that it has like connections with steamship lines between San Francisco and China, and Japan.

It further appears that the total mileage of the Southern Pacific Railroad is about nine thousand miles, of which the Central Pacific Railroad, eight hundred and seventy-one miles in length between Ogden and San Francisco, is a part.

The pleadings and evidence show further that the Union Pacific Railroad extends from Omaha, its Eastern terminus to Ogden, Utah, where it connects with the Central Pacific, and also with the Oregon Short Line, the Western terminus of which is at Portland, Oregon.

The pleadings and testimony further show that the Southern Pacific Railroad and the Union Pacific Railroad are competitors for transcontinental business.

It is further shown that it is disadvantageous to the Southern Pacific Railroad to have transcontinental shipments made by the Union Pacific route instead of the Southern Pacific route by reason of the fact that when they pass over the Union Pacific route the Southern Pacific gets at most the benefit of only a short haul of 871 miles over the Central Pacific, between Ogden and San Francisco, instead of the benefit of the long haul over its line between San Francisco and New Orleans,

and that when the Union Pacific utilizes the Oregon Short Line between Portland and Ogden the Southern Pacific loses the business entirely.

The pleadings and proof further show that early in the year 1901, the Union Pacific, for the purpose of acquiring control of the Southern Pacific, and controlling and restraining its competition, purchased 750,000 shares of the stock of the Southern Pacific Company and that afterward for the same purpose, purchased an additional 150,000 shares of its stock, making a total of 900,000 shares.

It is further shown that at the election of directors by the stockholders held in April, 1901, the Union Pacific, through its domination of the stockholders' meeting increased the number of directors of the Southern Pacific from twelve to fifteen, and elected eight of its own directors to be directors of the Southern Pacific, and that at the annual election of directors for 1902, it again elected a majority of the board of directors for the Southern Pacific from its own board of directors; that the directors so chosen for the Southern Pacific have individually only a nominal interest as stockholders of the Southern Pacific to technically qualify them to act as directors, and that they are largely interested as stockholders in the Union Pacific, and that following this unification of the board of directors of the two companies it has also unified the management of the two companies in all important particulars; that is to say, it has made E. H. Harriman, who is the Chairman of its Executive Committee, President of the Southern Pacific Company, and Chairman of its Executive Committee, and has appointed the same individual, Mr. J. C. Stubbs, to be General Traffic Manager for both roads, and in like manner has appointed the same individual to represent both companies in other important official positions connected with their management, and has also at each of a number of important points, where business originates, such as St. Louis, Chicago, Cincinnati, Pittsburg, etc., appointed the same individual to represent both companies as their common agent.

The pleadings and proof further show that since the Union Pacific acquired control, the earnings of the Southern Pacific Railroad have amounted in the aggregate to about \$90,000,000 annually; that the operating expenses have been, according to their reports, about 65 per cent, the gross earnings and that after paying all fixed charges, there has been a balance of the net earnings remaining of about \$10,000,000 annually, or a sum sufficient to pay an annual dividend of 4 per cent. on the stock of the Southern Pacific, and leave a large surplus; that, notwithstanding, the Southern Pacific Company, under its present management, has entered upon the policy, and has announced its purpose to continue the same, of not paying any dividends to stockholders, but of applying all net earnings to the making of vast improvements, largely unrequired and inadvisable, involving the construction of new tracks, new roads, new tunnels, etc., at a cost of many millions of dollars, and that they have been not only thus applying what by their reports are shown to be the net earnings of the Company, but, according to these reports, have expended large sums in addition to such earnings of the Company; in consequence of which their reports showed a deficit of more than \$4,000,000 on the first of January, 1903; now increased, as shown by subsequent reports, to more than \$6,000,000.

The pleadings and proof show further that more than two-thirds of these expenditures are being made on the 871 miles of the Central Pacific, between San Francisco and Ogden, and that not more than one-third has been expended, or is to be expended, upon the other more than 8,000 miles of the Southern Pacific road.

The pleadings and proof further show that the purpose of these enormous expenditures on the Central Pacific is to make the Union Pacific line, via Omaha, Ogden and the Central Pacific, a direct through line from Chicago, and other points east, to San Francisco.

The pleadings and proof further show that all the most important terminal facilities of the Southern Pacific Railroad at San Francisco belong to and are a part of the Central Pacific Railroad, and that the loss of those terminals to the Southern Pacific system would be a great injury to that property.

The pleadings and proof further show that at about the same time when the Union Pacific Company acquired control of the Southern Pacific Company it also acquired \$78,108,000, par value, out of a total of \$155,000,000 of the capital stock of the Northern Pacific Company, which had previously acquired control of the Chicago, Burlington and Quincy system, and which, through the Northern Securities Company, has since combined with the Great Northern Railroad, and that in this way the Union Pacific Company is not only a competitor with the Southern Pacific Company for transcontinental business, on account of the lines of the Union Pacific Railroad proper, but has also become a competitor with the Southern Pacific as to transcontinental business originating at points in the eastern part of the country as to the Great Northern, the Northern Pacific and the Chicago, Burlington and Quincy roads, in all of which in the manner indicated the Union Pacific has become largely and actively interested.

The bill avers as to the stock in question that the Union Pacific Railroad Company "did obtain in its own name, or in the names of persons acting in its interest, by purchase or otherwise, the ownership of the majority of the capital stock of the said Southern Pacific Company, and said Union Pacific Railroad Company, and said persons so acquiring and holding stock in its interest as

aforesaid, now own and hold a majority of the capital stock of said Southern Pacific Company, of which stock \$75,000,000, or 750,000 shares thereof, are pledged as collateral security with the Mercantile Trust Company, etc."

This averment was made in view of the annual reports of the Union Pacific Company for 1901 and 1902, both in evidence.

In the first of these reports it is shown that in the opinion of the directors of the Union Pacific it was necessary for the protection of the business of the Union Pacific "to acquire \$75,000,000 par value of the capital stock of the Southern Pacific, and \$78,108,000 par value of the stock of the Northern Pacific Company."

In the report of the Union Pacific Railroad Company for 1902, it is shown that for "like purposes, it had acquired an additional \$15,000,000 of the stock of the Southern Pacific, making in all a holding of \$90,000,000."

The answer of the Southern Pacific does not deny that the Union Pacific acquired this \$90,000,000 of stock or that it pledged \$75,000,000 of the same as collateral with the Merchantile Trust Company, as averred, reserving the right to vote the same. Nevertheless the proof shows that there is no stock standing on the books of the Southern Pacific in the name of the Union Pacific Railroad Company, but it does show that 749,300 shares of the stock of the Southern Pacific Company are standing in the name of E. H. Harriman, and that this stock was the first acquisition of \$75,000,000 less 700 shares which were distributed to the seven different persons, 100 shares to each, to qualify them to act as directors of the Southern Pacific Company, who were chosen from the directory of the Union Pacific Company, as co-directors with Harriman of the Southern Pacific Company; the proof showing that each of said persons holds that number of shares.

The proof further shows that the following persons hold stock in the Southern Pacific Company, as follows:

| Kuhn, Loeb & Company | 127,580 | shares. |
|----------------------|---------|---------|
| H. Woog              | . 8,300 | "       |
| J. J. Hannaur        |         | "       |
| S. Seigman           | 30,710  | "       |
| C. D. Haines         |         | "       |
| S. Steinman          | 39,145  | 64      |

making an aggregate with the 750,000 shares in the name of Harriman and his seven associate directors of 963,735 shares, and that they are all connected as principals or employees, with Messrs. Kuhn, Loeb & Co. who are shown by the testimony to be the active co-operators and participators, as bankers and financiers, with Harriman in the management of the Union Pacific and in the acquisition of the stock and control of the Southern Pacific, two members of that firm being directors of the Union Pacific and also directors of the Southern Pacific.

The total issue of stock of the Southern Pacific Company is shown to be \$197,849,227, so that the averment of the bill as to the Union Pacific acquiring a majority of the same in its own name or in the name or names of persons for its use and benefit is practically, if not absolutely, established.

The pleadings and evidence further show that at the stockholders' meeting for the election of directors in 1901 the total number of shares present and voting in person or by proxy was  $1,742,029\frac{417}{1000}$  of the par value of \$174,202,941.70, and that at the annual meeting of stockholders for the election of directors in 1902, the total number of shares present and voting in person or by proxy was  $1,573,892\frac{416}{1000}$  of the par value of \$157,389,246.10; in other words, the \$90,000,000 of stock held and voted in the interest of the Union Pacific was alone more than one-half of the stock voted at either of said elections.

The pleadings and evidence further show that the complainants were stockholders of the Southern Pacific Company in a large amount prior to the purchase by the Union Pacific Railroad Company of any of said stock, and that they have continuously remained stockholders ever since, and that they voted their stock in person or by proxy at the annual meeting of stockholders for the boards of directors respectively chosen in the years 1901 and 1902, but that when they so voted their stock they were of the opinion and belief because of what had been told them by the representatives of the Union Pacific Railroad Company's stock interests in the Southern Pacific Company, that the policy of the management of the Southern Pacific Company, as controlled by the Union Pacific would be primarily in the interest of the Southern Pacific Company and its stockholders, instead of in the interest of the Union Pacific and its stockholders.

The pleadings and evidence further show that other roads, including the Union Pacific and the leading and best managed railroads of the country have always provided, and do now provide for permanent betterments and new construction, involving the expenditure of large amounts of money, by issuing new securities therefor, thereby equitably distributing the burden of such betterments and construction over the future instead of imposing it wholly on the present stockholders.

The pleadings and proof further show that the other transcontinental lines are operated, as shown by their respective reports at an average of only 52.27 per cent. of their gross earnings as against 65 per cent. for the Southern Pacific, and that this excess of operating expense is due to the fact, in large part at least, that many important items of expense for permanent improvements or betterments of the Southern Pacific are carried into the account of operating expenses; and that in consequence the expenditures for betterments and permanent

improvements are much larger than shown by the annual reports of the Company or the affidavits of defendant.

The pleadings and evidence further show that since the present Union Pacific management has assumed control of the Southern Pacific, the system always heretofore in vogue of so keeping the accounts of the Southern Pacific Company as to show the receipts and disbursements on account of each constituent road separately has been discontinued, and that in consequence it is impossible to give such figures accurately, but that, according to the proof of the complainants, out of an estimated total of \$43,465,000 heretofore, and now being expended on the lines of the Southern Pacific Company. the sum of \$28,000,000 is being expended on the 871 miles of the Central Pacific between Ogden and San Francisco, and the sum of \$6,650,000 is being expended on the 772 miles of road from Sacramento to Portland, that being the part of the Southern Pacific which connects the Oregon Short Line with San Francisco; and that the sum of \$2,200,000 is being expended on the 277 miles of road from Sacramento to Bakersfield, that being a part of the Southern Pacific which is directly contributory to the Central and Union Pacific lines as to local California traffic, or a total of \$36,850,000 out of \$43,465,000 on 1,920 miles of the Southern Pacific in which the Union Pacific is directly interested out of \$43,465,000 expended and to be expended on the entire 9.000 miles of the Southern Pacific lines.

The testimony of the defendant shows that during the period named "contracts have been let" for betterments, new construction and permanent improvements on the entire Southern Pacific lines amounting to \$15,041,000 and that of this \$15,041,000 so contracted to be expended, \$9,014,000 of it is to be expended on the Central Pacific between Oregon and Reno alone.

The defendant's testimony further shows that this amount of \$9,014,000 contracted to be expended on the Central Pacific does not include any of the expenditures to be made between Reno and Sacramento, among which are the Summit Tunnel through the Sierra Nevada Mountains, about eight miles in length, and the entire new construction of 102.47 miles, both of which improvements defendant's evidence shows are to be constructed, but as to which defendant's witnesses say no contract has yet been formally entered into.

The defendant does not give the estimated cost of these improvements so contemplated, but not yet "contracted" for, but the description given of them by defendant's witnesses shows that they will necessarily cost many millions of dollars.

With distinction in mind as to what the respective witnesses have testified about, viz., what is contemplated in the one case, and what has been contracted for in the other, it will be seen that the testimony of the defendant practically sustains the testimony for the complainants of Isaac D. Barton, attached to the bill of complaint, including a statement by divisions of the expenditures to be made on the Southern Pacific lines shown at pages 55, 56, and 57 of complainant's bill and affidavits.

The averments of the bill as to abuses and discriminations that have been practiced in fixing rates and diverting business to the prejudice of the Southern Pacific, and the advantages of the Union Pacific are mere surplusage and beyond what has been shown the complainants did not offer any proof, or deem it necessary to offer any in support of the same.

Entertaining this view of the case they disregard in this statement of the case, all that part of the defendant's testimony that was offered to show that no such discriminations have been practiced, but that on the contrary the present management has been fair and beneficial to the Southern Pacific and all its interests. The claim of the complainants in this respect is that it is sufficient to show that the Union Pacific and the Southern Pacific are competitors, and that the Union Pacific has, as shown, acquired control of the Southern Pacific and put itself in a situation to practice the abuses and discriminations mentioned if it shall at any time see fit to do so, and that it is to the interest of the Union Pacific and those representing and acting for it so to discriminate. In other words, it is enough, the complainants contend, to show this interest and to show that it may do all these things, and not necessary to show that it has done them, because the law presumes that when self-interest and opportunity are combined the apprehended wrong will be done in due time unless the Court interposes and prevents it.

# Argument.

I.

Upon the case so presented Appellants, as minority stockholders, had a right to sue the Southern Pacific Company for the relief prayed for without first formally requesting it to bring such suit.

Thompson on Corporations, Secs. 4500, 4504 and 4521.

Rogers vs. K. C. R. R., 91 Fed. Rep., 299.

H.

Appellants are not estopped by reason of having voted their stock for the directors chosen at the stockholders' meeting in 1901 and 1902.

51 La. Annual, p. 839.

There cannot be estoppel when no one even claims that complainants have by any act misled anybody to his prejudice or otherwise.

#### III.

This suit has no relation whatever to the pool of which defendant makes such prominent and repeated mention in its answer and affidavits.

See

Affidavits of Taylor, Lauterbach, and statement of Keen in Harriman's affidavit.

But if the suit had been brought on behalf of the pool that would not constitute a defense, because—

1. The pool is shown to be legitimate in character and purpose.

2. Equity does not discountenance, but invites a pool

in such a case as this.

One of the first averments of the bill is that the suit is brought on behalf of the complainants, and all other minority stockholders who may join with them and share the expense of the litigation.

### IV.

The Union Pacific Railroad Company is not an indispensable, nor even a proper party to this suit, because—

1. It has no stock in its name, and therefore it has no right to vote any stock.

It has seen fit to put its stock in the name of E. II. Harriman and thus has invested him with the right to vote it.

"A person in whose name the stock of the corporation stands on the books of the corporation, is, as to the corporation, a stockholder, and has the right to vote the stock."

Bank vs. Bank, 36 O. S., 355.

If it be said that the Union Pacific Railroad Company

has a beneficial ownership in the stock, and for that reason should be made a party, there are two answers:

First, The beneficial ownership WILL NOT BE AFFECTED by the relief prayed for, because that relief will affect ONLY the right to vote; a right it has purposely divested itself of, and therefore does not possess, and could not exercise, if it were present at the meeting and demanding it, and

Second, Its representative upon whom it saw fit to confer that right is the proper party to protect and defend it, and the only one who can do so while he holds the stock as against the other stockholders who have the right, and are under the duty, to determine such question at their stockholders' meeting if its right be challenged.

By choosing for purposes of its own to place its stock in the name of Mr. Harriman it is estopped (1) to either claim for itself the right to vote it, or (2) to dispute his right to vote it, or (3) to complain if he be treated by the Court as its proper representative to protect and defend, before the Court, his right to vote it.

#### V.

This case is unlike the case of Hollifield vs. Wrightsville & T. R. Co., et al., 99 Ga., 365, cited in the opinion of the Circuit Court.

In that case the Court was asked not only to prevent the vote being received, but also to cancel the stock as invalid, to "emasculate" it, as the Court said, to destroy its value in the hands of the receiver who held it as an asset, and to enjoin him from selling the same.

The Court held that it could not grant such drastic and wholesale relief without first making the receiver (or his company) a party and giving him a chance to be heard; but in the case at bar no such relief is asked. All complainants pray for is an injunction to prevent the defend-

ant from receiving the vote of the stock, and for that purpose we claim that a suit against the corporation in its corporate name brings every stockholder before the Court. It is immaterial for the purposes of this case whether such a suit would bring the stockholders before the Court for any other purpose.

#### VI.

Every stockholder has with respect to the stock he may own in a corporation two kinds of rights, one individual and the other corporate.

First he has the same right with respect to his stock that he has with respect to any other item or kind of

property.

He can sell it, or pledge it as security; he can receive and enjoy the dividends that it may earn. All these are mere property rights, and he holds and enjoys them in his individual capacity, independently of the corporation. That is to say, it is not a corporate act when he sells his stock, or pledges it, or draws his dividend upon it.

A stockholder would be an indispensable party, in his individual capacity, to a suit to enjoin him from selling his stock, or to cancel a sale of it, or to foreclose a pledge of it, because it would affect his individual property rights about which the corporation issuing the stock would have no power or right to represent him, since no corporate act or corporate right would be involved.

Service on the corporation in such a suit, if it were for any reason a proper party, would not of course bring the stockholder before the Court.

This case suggests an illustration.

The record shows that the 750,000 shares of stock held by Mr. Harriman were pledged by the Union Pacific with the Mercantile Trust Company as collateral for an issue of convertible 4% bonds of the Union Pacific. That was an individual action, in its individual right, and in no sense a corporate act of the Union Pacific in its capacity as a stockholder of the Southern Pacific.

In a suit to foreclose that pledge the Union Pacific would be a necessary party in its individual or separate corporate capacity. No suit against the Southern Pacific Company would bring the Union Pacific before the court as a stockholder so as to give the court jurisdiction of it as to that transaction, because it was one had in its individual right.

But the right to vote at a stockholders' meeting is a right of a wholly different nature. It is a corporate right that can be exercised only in connection with the corporation, and by the stockholder, acting, in his capacity of stockholder, in co-operation with the other stockholders, and at a stockholders' meeting where they all act collectively.

A suit, therefore, against a corporation to affect the corporate act of voting is necessarily a suit against the stockholders as such, for they and they alone can perform the corporate act of holding a stockholders' meeting and electing directors, and each stockholder must therefore in such a suit, as in all others properly brought against the corporation in its corporate name, be conclusively presumed to be a citizen of the State creating the corporation, not only for purposes of jurisdiction, but for all purposes touching his corporate acts and rights involved in such a suit.

That the stockholder's right to vote is not individual, but corporate, is shown by the fact that it can be exercised only in company with the other stockholders, at meetings held in pursuance of charter rights.

A man may sell his stock at his pleasure without consulting or co-operating with anybody. That is individual action with respect to an individual right.

But a man can vote his stock only as one of the whole

body of stockholders, who act collectively, and at stated times, and in accordance with charter rights, and for corporate purposes. It follows that the right to vote stock is not an individual, but a corporate right, and the act of voting is not an individual, but a corporate act.

With this distinction in mind it is clear that in undertaking to supervise the right to vote the court is dealing with the stockholders in respect of their corporate rights and corporate acts, and if so, it is sufficient in such case to sue only the corporation in its corporate name, and not necessary to sue also each individual stockholder in his individual capacity, whose right of voting is to be affected as a separate independent co-defendant.

The case of Hawkins vs. Glenn, 131 U. S., 319. is directly in point.

That was an assessment case. The Court held that each stockholder was present by representation, by and through the corporation, which was sued in its corporate name, and which, therefore, represented every stockholder because the assessments were a corporate matter, and as to corporate matters it was sufficient to bind every stockholder, to bind the corporation.

The Court so decided on the express ground that the assessment in question "was a corporate question merely," and that, being merely a corporate question, there was no occasion to make a stockholder a party in his individual capacity, because he could not in his individual capacity properly defend against an obligation he was under in his capacity of stockholder.

The first paragraph of the syllabut reads, as follows:

"In the absence of fraud stockholders are bound by a decree against their corporation in respect to corporate matters."

Chief Justice Fuller says in his opinion at page 329:

"A stockholder is so far an integral part of the corporation, that, in view of the law, he is privy to

the proceedings touching the body of which he is a member."

He further says at page 332:

"We think it cannot be doubted that a decree against a corporation in respect to corporate matters such as the making of an assessment in the discharge of a duty resting on the corporation, necessarily binds its members in the absence of fraud, and that this is involved in the contract created in becoming a stockholder."

To the same effect

Glenn vs. Liggett, 135 U.S., 543.

We submit that assessments on account of unpaid subscriptions are not any more corporate matters than are meetings of stockholders, and the voting, by them, of their stock.

Nothing is more distinctly a corporate act than a stockholders' meeting, especially an annual meeting for the election of directors, for on that depends the continuance of corporate organization and corporate existence.

It is because the election of directors is a purely corporate matter, relating only to the internal affairs of a corporation, that the courts of States other than the State of the corporation's creation, will not take jurisdiction to supervise the same.

Clarke and Marshall on Private Corporations say on page 2753:

"It is a thoroughly settled principle that the courts of the State and the country have no visitorial power over foreign corporations. Such power is exclusively in the State or country by which the corporation was created. The courts of the State or country therefore have no jurisdiction to interfere by injunction or otherwise in the internal affairs or management of a foreign corporation even at the suit

of a resident stockholder and even though the corporation may be doing business in the State or country, or may have expressly or impliedly agreed to submit to the jurisdiction of the court against it."

It follows that all matters purely corporate in their character and relating only to the internal affairs of the Southern Pacific Company, such as the election of directors at an annual meeting of stockholders, can be supervised by the courts only of Kentucky, State or Federal, and therefore to oust the court of jurisdiction by showing that the right to vote is to be affected of some stockholder who does not reside in Kentucky and who cannot therefore be individually sued and served with process there, is to hold that the courts in practically all cases, are powerless, because of rules intended to facilitate the administration of justice, to administer any justice whatever.

Our contention is, therefore, that the right to vote stock at an annual election of directors is a purely corporate right that is not exercised by a stockholder in his individual right or capacity, and that his right to defend that right belongs to him only in his capacity as a stockholder, and that the suit against the corporation in its corporate name, touching such right, is in fact a suit against the stockholders, and brings the whole body of stockholders before the Court, and gives the court jurisdiction of them to supervise their election and determine their respective rights of voting among themselves.

It has been repeatedly held by the Supreme Court that "a suit against a corporation, in its corporate name, is a suit against the stockholders."

1 Black, 286; 2 Howard, 497; 94 U. S., 444; 106 U. S., 118; 121 U. S., 186; 145 U. S., 444. In all these cases and others that might be cited, it has been further held that, "for the purposes of jurisdiction, every stockholder will be conclusively presumed to be a citizen of the State creating the corporation," and hence within the jurisdiction of the Court.

This applies to artificial as well as to natural persons, corporations as well as individuals, who choose to become stockholders in other corporations.

If, therefore, the Union Pacific Railroad Company is to be regarded as the holder of the stock in question for the purposes of this suit, and not E. H. Harriman, it must be conclusively presumed for the purposes of jurisdiction to be a citizen of Kentucky, and to be sued with the other stockholders as one of the body.

When it chose to become a stockholder of the Southern Pacific Company it took upon itself, in that relation, all the liabilities of its co-stockholders.

So far, therefore, as this suit is concerned, it is not to be considered as a corporation organized under the laws of Utah, and as such engaged in the operation of a railroad in that and other States, but only as an artifical person who belongs, as a citizen, in the State of Kentucky.

In the case of

Bank of U. S. vs. Planters Bank of Georgia, 9 Wheaton, p. 907,

it was held by Chief Justice Marshall that the Circuit Court could not be ousted of jurisdiction by showing that one of the stockholders of the defendant bank was the State of Georgia, for the reason that:

"Where a government becomes a partner in any trading company, it divests itself, so far as concerns the transactions of that company, of its sovereign character, and takes that of a private citizen."

If the suit against the corporation in its corporate name is a suit against the stockholders, so too must service on the corporation in its corporate name, be service upon the stockholders, and *all* of them, without regard to where they reside, or who they are.

### VII.

The idea that there is a corporate entity, separate and distinct from the body of stockholders, is only a legal fiction, adopted by the law for the sake of convenience, and to promote the ends of justice.

This legal fiction is never allowed to defeat the purposes for which it was adopted, and the court will, therefore, when occasion arises, disregard it and proceed upon the fact that the body of stockholders is the real corporation, and the only corporation.

This was done in the case of State vs. Standard Oil Company, 49 O. S., 137, where the Court said:

"Among the many attempts that have been made to define the nature of a corporation, that given by Mr. Kyd, discarding, or at least not adopting, the metaphysical distinction of a legal entity separate from the persons composing it, is certainly the most practical, presenting as it does, the real nature of a corporation as seen in its constituents, and in the manner that it is formed and transacts its business. His definition is 'a collection of many individuals united into one body, under a special denomination, having perpetual succession under an artificial form, and vested, by the policy of law, with the capacity of acting, in several respects, as an individual, particularly of taking and granting property, of contracting obligations, and of suing and being sued, of enjoying privileges and immunities in common, and of exercising a variety of political rights, more or less extensive, according to the design of its institution, or the powers conferred upon it, either at the time of its creation, or, at any subsequent period of its existence.' (1 Kyd on Corporations, 13). In brief then, a corporation is a collection of many individuals, united in one body under a special denomination, and vested by the policy of the law, with the capacity of acting in several respects as an individual. 'The statement,' says Mr. Morawetz, 'that a corporation is an artificial person, or entity. apart from members, is merely a description, in figurative language, of a corporation viewed as a collective body; a corporation is really an association of persons, and no judicial dictum or legislative enactment can alter this fact ' (see his work on Corporations, Sec. 227). So that the idea that a corporation may be a separate entity, in the sense that it can act independently of the natural persons composing it, or abstain from acting, where it is their will that it shall, has no foundation in reason or authority, is contrary to the fact, and, to base an argument upon it, where the question is, as to whether a certain act was the act of the corporation, or of its stockholders, cannot be decisive of the question. and is therefore illogical; for it may as likely lead to a false, as to a true result. Now, so long as a proper use is made of the fiction, that a corporation is an entity apart from its shareholders, it is harmless, and, because convenient, should not be called in question; but where it is urged to an end subversive of its policy, or such is the issue, the fiction must be ignored, and the question determined. whether the act in question, though done by shareholders, that is to say, by the persons united in one body, was done simply as individuals and with respect to their individual interests as shareholders, or was done ostensibly as such, but as a matter of fact, to control the corporation and affect the transaction of its business, in the same manner as if the act had been clothed with all the formalities of a corporate act. This must be so, because the stockholders having a dual capacity, and capable of acting in either, and a possible interest to conceal their character when acting in their corporate capacity, the absence of the formal evidence of the character of the act, cannot preclude judicial inquiry on the subject. If it were otherwise then, in one department of the law, fraud would enjoy an immunity awarded to it in no other."

Applying these principles to the case under consideration it results

- (1) that the suit of the appellants against the Southern Pacific Company is a suit against the stockholders of that Company, and
- (2) that for the purposes of jurisdiction all the stockholders are conclusively presumed to be citizens of the State of Kentucky, and
- (3) that service on the corporation in its corporate name is service upon all the stockholders, and
- (4) that for all corporate purposes every stockholder is represented and has his day in court by and through the corporation, and is bound by every order, judgment or decree touching corporate liabilities, or corporate acts, and corporate rights, that may be made or entered against the corporation, and
- (5) that a stockholders' meeting to elect directors is a corporate act, and the right of a stockholder to vote his stock at such meeting is not an individual, but a corporate right, and
- (6) that the Union Pacific Railroad Company, having no stock in its name, has no right to vote any stock, and consequently it is not a necessary or even a proper party, and that
- (7) E. H. Harriman, in whose name the stock of the Union Pacific Company stands, has the right to vote the stock so far as any one has that right, and
- (8) that he is, as a stockholder, an integral part of the corporation, and as one of the body of stockholders a defendant before the Court, charged with privity of knowledge as to all corporate matters involved in the suit, and under the duty of defending his right to vote by and through the corporation as named and sued, and
- (9) that he is, therefore, not an indispensable, a necessary, or even a proper party defendant in his individual capacity.

#### VIII.

# All these questions have been adjudicated.

In the Standard Oil case (49 O. S., 137), the stock-holders had entered into a trust agreement under which they had turned over their stock to the trustees who had given them trust certificates in lieu of it.

The Attorney-General brought quo warranto, naming only the corporation, by its corporate name, as defendant.

The defense was that the illegal trust agreement had not been entered into by the corporation, that had been sued, but only by the stockholders, who had not been sued.

The Court held that the stockholders were the corporation, and that their act was the act of the corporation, and that the corporation should be ousted from the further performance of the illegal agreement, and that the company should not pay to the trustees any further dividends on the stock held by them, nor should the company allow them to further vote the stock they held in the election of directors, nor should the transfers of the stock that had been made to the trustees be in any manner whatever recognized by the company.

This was an order that affected the rights of the trustees to vote the stock, and to hold the stock, and to collect dividends on the stock, and also affected the right of the stockholders to retain their trust certificates and collect dividends on them, but neither the trustees, nor the stockholders were before the Court, or parties to the suit, except by and through the corporation acting in its corporate name as a defendant.

In the suit of the United States ex rel vs. The Northern Securities Co. recently decided, no stockholder was made a defendant in his capacity as a stockholder and yet the rights of the stockholders of all the

companies concerned were affected by the judgment asked and rendered.

In the Standard Oil case it does not appear from the record whether the point was made that the stockholders were necessary parties, but the record shows that the point was made by defendants and overruled by the Court in the Northern Securities case.

The Court in these cases necessarily proceeded upon the theory that inasmuch as the suit involved only corporate matters and corporate rights the stockholders were before the Court, under the name by which they had agreed "to sue and be sued," and that it was not necessary to have them before the Court also in their individual capacities.

The case of Minnesota vs. The Northern Securities Co., 184 U. S., 199, cited by counsel for defendant is not in conflict with this contention, but a conclusive authority for it.

In that case the bill was dismissed because the Court found from its averments that the Great Northern and Northern Pacific Railway Companies were indispensable parties; but why?

Because the Northern Securities Company did not hold all the stock of those two companies, but only a majority of the stock of each, and the relief asked would affect the rights of the minority stockholders, and the presence of those two companies was necessary, for that reason, to represent them, and they could not be made parties without ousting the Court of its jurisdiction of the case.

If the Northern Securities Company had held all the stock of both companies neither would have been according to the opinion of the court, a necessary party to the suit, so far as the rights of stockholders were concerned, because, in that event, they would have been represented by the Northern Securities Company; and if,

on the other hand, the Great Northern and the Northern Pacific Companies could have been made parties, without ousting the jurisdiction, that would have been done, and the suit would have proceeded against the three corporations, without making any of the stockholders parties in their individual capacities, notwithstanding it was their rights that were to be affected; simply because in that case they would all have been represented by the three defendant companies, and, in consequence, they would all have been before the court "constructively", in the language of Mallow vs. Hinde, 12 Wheaton, 193-198, or by "representation", according to Hawkins vs. Glenn, 131 U.S., 319, or because the suit, being against the three companies, in their corporate names, was a suit against the stockholders of the three companies, and service upon those companies, respectively, was service on the three bodies of stockholders, respectively, according to 94 U.S., 444, and other cases cited.

Mr. Justice Shiras in discussing this point says at page 245 (184, U. S.):

"Can such a controversy be determined with due regard to the interests of all concerned, by a suit solely between the State of Minnesota and the Northern Securities Company? It is, indeed, alleged that all the stockholders of the Northern Securities Company are stockholders in the two railroad companies. and therefore, it may be said that the latter stockholders are sufficiently represented in the litigation by the Northern Securities Company; but it is not alleged that the stockholders of the Northern Securities Company constitute or are composed of all the stockholders of the two railroad companies, and, in fact, the contrary is conceded in the allegations of the bill that a majority only of the stock of one, or perhaps both of the two railroad companies is owned or at least controlled and managed, by the Northern Securities Company. It is obvious, therefore, that the rights of the minority stockholders of the two railroad companies are not represented by the Northern Securities Company. They have a right to be represented, in the controversy, by the companies whose stock they hold, and their rights ought not to be affected without a hearing, even if it were conceded that a majority of the stock in such companies, held by a few persons, had assisted in forming some sort of an illegal arrangement. Moreover, it must not be overlooked that it is not the private interest of stockholders that are to be alone considered. The directors of the Great Northern and Northern Pacific Railway Companies are appointed to represent and protect not merely the private and pecuniary interests of the stockholders, but the rights of the public at large, which is deeply concerned in the proper and advantageous management of these public highways. It is not sufficient to say that the Attorney General, or the Governor, or even the Legislature of the State, can be conclusively deemed to represent the public interests in such a controversy as that presented by the bill. Even a State, when it voluntarily becomes a complainant in a court of equity, cannot claim to represent both sides of the controversy. Not only have the stockholders, be they few or many, a right to be heard, through the officers and directors whom they have legally selected to represent them, but the general interests of the publie, which might be deeply affected by the decree of the court, are entitled to be heard; and that, when the State is the complainant, and in a case like the present, can only be effected by the presence of the railroad companies as parties defendant."

So far as defendant's authorities are concerned, there is not one of them that involves the question of the effect upon the stockholders as to his corporate rights, with respect to his stock, of suing the corporation, in its corporate name, as to purely corporate matters, except the Northern Securities case (184 U.S.) just considered, and the case of Hollifield vs. Wrightsville & T. R. Co. et al, 99 Ga., 365, and in that case the question was not either raised or considered.

For that reason, and because of what we have already said of this case in another connection, it should not have any weight.

#### IX.

Mr. Harriman is not only before the Court as a defendant in his capacity as a stockholder, but, if that be essential, he is also before the Court as an individual defendant who has voluntarily entered his appearance.

He is the first and principal witness for the defendant. His affidavit is an elaborate defense addressed to the merits of the bill to show why the Southern Pacific Company should not be enjoined from receiving his vote of the stock owned by the Union Pacific Company, whether offered in his own right, or as its agent or trustee.

If a person be interested in a suit and take an active part in its defense, he will be bound by the judgment, although not a formal party of record; and he will be so bound because he is, in such case, considered as in the same relation to the case as that of a party who has had his "day in Court"; in fact and effect a party although not so named of record.

"One who, though not a party to the action, appears and defends in the name of a party, is concluded by the judgment rendered therein."

Montgomery et al vs. Vickery, 110 Ind., 211.

## To same effect:

38 Mass., 176.

47 Mich., 366.

49 Fed. Rep., 583.

50 Fed. Rep., 193.

71 Fed Rep., 588.

What Mr. Harriman did in this case amounted in legal effect to a voluntary appearance for himself individually, and as a representative of the beneficial owner of the stock in question.

"A defective service is cured by the appearance of the defendant and the filing of an affidavit by the defense. After that it is too late for the defendant to allege he is not in Court."

McGeorge vs. Capitol Mnfg. Co., 141 Pa. St., 575.

"Any pleadings to the merits \* \* \* or by in any manner attacking plaintiff's case is a general appearance."

American Ency. of Pl. & Pr. Vol. II, page 636.

#### X.

The fact that the Union Pacific Railroad Company was joined with the Southern Pacific Company as a co-defendant does not affect the application of these rules.

It was joined because it was supposed by the complainants when they filed their bill that it held the stock in question in its own name, as indicated by its annual and official reports, and because the complainants asked for an injunction directed against it restraining it by name from voting the stock.

It was thought in view of all this that it was a "proper" party, but it was not regarded as a necessary or indispensable party.

But if the Union Pacific was rightly named as a defendant, and rightly held to be a necessary party it did not follow that the bill should be dismissed.

It was the privilege, and, under the circumstances, the duty of the Court to entertain jurisdiction under Sec. 737, U. S. R. S., and render judgment between the com-

plainant and the Southern Pacific Company who were parties properly before it.

This section reads as follows:

"When there are several defendants in any suit at law or in equity, and one or more of them are neither inhabitants of nor found in the district in which the suit is brought and do not voluntarily appear the court may entertain jurisdiction and proceed to the trial and adjudication of the suit between the parties who are properly before it and the judgment then rendered therein shall not conclude or prejudice other parties not regularly served with process nor voluntarily appearing to answer and non-joinder of parties who are not inhabitants of nor found within the district aforesaid shall not constitute a matter of abatement or objection to the suit."

The judgment so rendered would "not conclude or prejudice other parties" not before the Court.

In that event, when the Union Pacific Company saw fit it could appear in its individual corporate capacity, if it had such right, and litigate its right to vote its Southern Pacific stock without prejudice, or it could abide the effect upon it of the judgment rendered in its absence; and that was what equity and justice required upon the general facts of this case, and especially required in view of the fact that it, or its agent, who held its stock, was constructively present as a stockholder of the Southern Pacific Company, and actually present as a witness for the Southern Pacific Company and himself, and also present as the President of the Southern Pacific Company, the answering defendant, and in all these capacities actually and actively participating in, and in fact conducting, the defense.

The decision in Mallow vs. Hinde, 12 Wheaton, 193, was put "upon the ground that no court can adjudicate directly upon a person's right without the party being actually or constructively before the court."

This rule of the statute (Sec. 737) is supplemented by equity rule 47, which reads as follows:

"In all cases where it shall appear to the Court that persons who may otherwise be deemed necessary or proper parties to a suit cannot be made parties by reason of their being out of the jurisdiction of the Court or incapable otherwise of being made parties or because their joinder would oust the jurisdiction of the Court as to the parties before the Court, the Court may in their discretion proceed in the case without making such persons parties and in such cases the decree shall be without prejudice to the absent parties."

In the case of California vs. The Southern Pacitic Company, 157 U. S., 229, a divided court after considering Sec. 737 and Rule 47, dismissed the bill for the lack of an indispensable party whose presence as a party would have ousted the jurisdiction, but it cites as the leading authority in support of its judgment Mallow vs. Hinde, 12 Wheaton, 198, which, as already shown, was a case where the indispensable party was neither actually nor constructively present.

The whole spirit of the opinion of the Court was such as to indicate clearly that if the absent party had been "constructively" present no order of dismissal would have been made.

In Minnesota vs. The Northern Securities Company, 184 U.S., p. 235, Mr. Justice Shiras said:

"In the case of Shields vs. Barrows, 17 How., 130, the question was fully discussed, and it was fully shown, upon a review of the previous cases, that there are three classes of parties to a bill in equity. They are: 1, formal parties. 2. Persons having an interest in the controversy, and who ought to be made parties, in order that the court may act on that rule which requires it to decide on, and finally de-

termine the entire controversy, and do complete justice, by adjusting all the rights involved in it. These persons are commonly termed necessary parties; but if their interests are separable from those of the parties before the Court, so that the Court can proceed to a decree and do complete and final justice, without affecting other persons not before the court, the latter are not indispensable parties. 3. Persons who not only have an interest in the controversy, but an interest of such a nature that a final decree cannot be made without either affecting that interest, or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience."

At Section 50 of Foster's Equity Practice the author says as to the rule that equity delights to do complete justice.

"This rule, however, having been established for the promotion of justice will be modified whenever its rigid enforcement would prevent the court from doing justice to the person invoking its protection".

The same author says at Section 59:

"The rules upon the subject of parties are however very loose and the questions arising under them are decided largely in the discretion of the court. The necessity for the relaxation of the rule is more especially apparent in the Courts of the United States, where oftentimes the enforcement of the rule would oust them of their jurisdiction and deprive parties entitled to the interposition of a court of equity of any remedy whatever".

The purpose of all these rules is to secure justice, not to prevent it; and in that spirit, in view of the latitude and discretion entrusted to a court of equity, it should in all cases retain jurisdiction, as to the parties properly before it, when it can do so in accordance with the principles of justice; but especially should it do so, in all such

cases, when a worse wrong will be done to the complainant by dismissing his bill for the lack of an absent party than by proceeding without him; particularly when he is

- (1) present constructively and by representation,
- (2) is fully informed, and
- (3) is actually and actively defending the suit.

In this case no harm could have come to either the Union Pacific or Mr. Harriman, its agent, by proceeding to adjudicate between the complainants and the Southern Pacific, because they necessarily had privity of knowledge at least, and could have appeared at any time, without prejudice, before or after judgment, and could have been fully heard and protected; while as to the complainants, they were dismissed without a hearing on the merits of their bill, and without a forum anywhere to which they could resort. To have retained jurisdiction would only have required the Union Pacific or Mr. Harriman, its agent, to submit his right to vote his stock in a case in which he was already present defending that right, to the judgment of a court within whose jurisdiction he already was, and where he must exercise his right to vote, if he shall exercise it at all; while as to the complainants the dismissal of their bill involved, if that judgment shall be affirmed, an absolute failure, if not denial of justice.

## XI.

The Union Pacific and the Southern Pacific are competitors for transcontinental business.

This is shown by

- (a) The map.
- (b) Common termini, San Francisco and Portland.
- (c) Also virtual common termini at Cincinnati, Louisville, Chicago, New York, etc.

(d) Affidavit of J. C. Stubbs, defendant's witness, who says

speaking of the practice of the agents in securing traffic at different points,

"From Pittsburg and from Cincinnati the Southern Pacific agents have always worked business via. all routes, that is to say, via. Ogden, or via. New Orleans and El Paso, or via. El Paso direct, according to circumstances."

It would be impossible to do this if the lines mentioned were not competing lines.

(e) Affidavit of William Sproule, witness for defendant, who says

"Manifestly if it was the policy of the present management of the Southern Pacific Company to divert traffic, which ordinarily moved, or has moved via. the Southern Pacific line or El Paso gateway to the Central Pacific line or Ogden gateway, that could easily be done by a change in the adjustment of the rates", etc.

A change of rates could not divert traffic from any but a competing line.

All of the witnesses on both sides who gave evidence on the subject testified to the same general effect.

Counsel for defendant in their brief filed in the Circuit Court did not deny that the two roads are competitors for "through business".

They contended that they are not competitors for local business and concluded their remarks on that subject, as follows: "The only competition between the two roads is, therefore, for through business bound east and west". (P. 77, Brief for Defendants, Circuit Court.)

#### XII.

The Union Pacific and the Southern Pacific Rail-roads being competitors, it was a violation of public policy, and for that reason illegal, for the Union Pacific to acquire and maintain control of the Southern Pacific by purchasing and voting its stock as shown.

M. & C. R. R. Co. vs. Wood, 88 Ala., 630. Millbank vs. R. R., 64 How., Pr. 20. Pearson vs. Concord R. R., 62 N. H., 937. Pearsall vs. Great Northern R'y, 161 U. S., 646. Louisville & Nashville vs. Kentucky, 161 U. S., 698. United States Ex rel vs. The Northern Securities Co.

### XIII.

It is not necessary in determining whether the Union Pacific has acquired control of the Southern Pacific to show that the Union Pacific has acquired a majority of all the stock issued by the Southern Pacific Company. It is sufficient if it appear that it has acquired enough to enable it to gain and retain such control, and that has been demonstrated.

Pearsall vs. Great Northern, 161 U.S., 646.

# XIV.

It is not necessary to show that discriminations and abuses HAVE BEEN practiced to entitle the complainants to the relief asked. It is enough to entitle them to such relief to show that the situation is such as to give the Union Pacific power to practice such discriminations and abuses if it so desire.

161 U. S., 646; 88 Ala., 630; 64 How., Pr. 20; 62 N. H., 537; 49 O. S., 137;

U. S. Ex rel vs. Northern Securities Co. et al.

### XV.

The proof shows that it is within the power of the Union Pacific to practice abuses and discriminations against the Southern Pacific.

Affidavit of J. C. Stubbs. Testimony of E. H. Harriman. Affidavit of William Sproule. Affidavit of Isaac D. Barton.

### XVI.

The proof shows that discrimination has been practiced in making expenditures on the Central Pacific.

It appears from the affidavits of Stubbs, Sproule, Wallace, Kruttschnitt, Barton, and others that on the 871 miles of the Central Pacific, between Ogden and San Francisco, twice as much money has been expended, from the earnings of the entire Southern Pacific system, of about nine thousand miles, as have been expended on the remaining eight thousand miles, and that the immediate purpose of such expenditures is to make of the Union Pacific line "a direct, through route from Chicago to San Francisco by way of Omaha and Ogden, for the purpose of making it the main competitor in transcontinental business of the other transcontinental lines", and the result of all that will be to give the Union Pacific a haul over its entire line between Omaha and Ogden, and the Southern Pacific only the short haul between Ogden and San Francisco, instead of the long haul over its main lines. This would apply to all business originating in the Atlantic Sea Board as well as to all business on the Pacific Coast, and be a direct injury to the Southern Pacific as to all business diverted from its main line to the Union Pacific, or "direct, through line" and a corresponding advantage to the Union Pacific.

Also that it is making expenditures of like undue proportions on the line from San Francisco to Portland and from Sacramento to Bakersfield, all having primary reference to the interests of the Union Pacific.

### XVII.

The acquisition by the Union Pacific of the stock of the Southern Pacific was for the purpose of securing control of the Southern Pacific, and the power to control with respect to the two lines the business done by both, thereby lessening competition and encouraging monopoly.

- (a) This is shown by the official reports of the Union Pacific for the years 1901 and 1902, in which the acquisitions of stock and the reasons for making them are set forth.
- (b) It is also shown by the undue expenditures being made on the Central Pacific, those parts of the Southern Pacific in which the Union Pacific is immediately interested, when coupled with the purpose given therefor as already mentioned.

# XVIII.

Such acquisition by the Union Pacific of the stock of the Southern Pacific is illegal, because

(a) Condemned by public policy.

Pearsall vs. Great Northern, 161 U. S., 646. L. & N. R. R. vs. Kentucky, 161 U. S., 677. U. S. Ex Rel vs. Northern Securities. Pearson vs. Concord Rd. Co., 62 N. H., 937.

(b) It is illegal also under the act of Congress of July 2nd, 1890, and although this suit is brought by stockholders to protect their individual rights they may avail themselves of the fact that by this statute the act of the Union Pacific from which they suffer wrong is made illegal.

E. Bement & Sons vs. National Harrow Co., 186

U. S., pp. 70, 87-88.

67.5

## XIX.

The two roads being transcontinental competitors, and one having acquired the stock of the other with a view to controlling its management, and thus having full power to fix rates at will, and to route freight at pleasure, the result is a combination in restraint of trade, and such being its character, the intent is immaterial, and need not be proven.

166 U. S., 341; 171 U. S., 505.

## XX.

Whether the present management is wise or unwise, beneficial to the Southern Pacific, or the reverse, is wholly immaterial. If it be wise and beneficial, which is denied, that is not a defense.

The Freight Association and the Standard Oil Company and the Northern Securities Company and the Concord Company all made the same defense in the cases cited, but without avail.

In State ex rel vs. Standard Oil Company, 49 O. S., at page 186, the reasons why such a defense is never permitted are set forth as follows:

"Much has been said in favor of the objects of the Standard Oil Trust, and what it has accomplished. It may be true that it has improved the quality and cheapened the cost of petroleum and its products to the consumer. But such is not one of the usual or general results of a monopoly; and it is the policy of the law to regard, not what may, but what usually happens. Experience shows that it is not wise to trust human cupidity where it has the opportunity to aggrandize itself at the expense of others. The claim of having cheapened the price to the consumer is the usual pretext on which monopolies of this kind are defended, and is well answered in Richardson vs. Buhl, 78 Mich., 632. After commenting on the tendency of the combination, known as the

Diamond Match Company, to prevent fair competition and to control prices, Champlin, J., said. It is no answer to say that this monopoly has in fact reduced the price of friction matches. That policy may have been necessary to crush competition. The fact exists that it rests in the discretion of this company at any time to raise the price to an exorbitant

degree.'

"Monopolies have always been regarded as contrary to the spirit and policy of the common law. The objections are stated in 'The case on Monopolies' Darcy vs. Allein, Coke's Reports, part XI, 84b. They are these: 1, 'That the price of the same commodity will be raised, for he who has the sole selling of any commodity may well make the price as he pleases.' 2, 'The incident to the monopoly is, that after the monopoly is granted the commodity is not so good and merchantable as it was before, for the patentee having the sole trade regards only his private benefit and not the commonwealth.' 3, 'It tends to the impoverishment of divers artificors and others, who before by the labor of their hands in their art of trade had maintained themselves and their families, who will now of necessity be constrained to live in idleness and beggary.' The third objection, though frequently overlooked, is none the less important. A society in which a few men are the employers and the great body are merely employes or servants, is not the most desirable in a republic; and it should be as much the policy of the laws to multiply the numbers engaged in independent pursuits or in the profits of production as to cheapen the price to the consumer. Such policy would tend to an equality of fortunes among its citizens, thought to be so desirable in a republic, and lessen the amount of pauperism and crime. It is true that in the case just cited the monopoly had been created by letters patent. But the objections lie not to the manner in which the monopoly is created. effect on industrial liberty and the price of commodities will be the same whether created by patent, or by an extensive combination among those engaged in similar industries, controlled by one management.

By the invariable laws of human nature, competition will be excluded and prices controlled in the interest of those connected with the combination or trust."

#### XXII.

Upon the case presented the complainants as stock-holders are entitled to relief by injunction, restraining the Southern Pacific Company (which means the stock-holders, at their annual meeting), from receiving the vote of any stock held by, or in the interest of the Union Pacific Railroad Company.

88 Alabama, 630. 64 How., P. 20. 62 N. H., 37. 49 O. S., 137. 161 U. S., 646. 161 U. S., 677. 36 N. J. E., 5. 37 Fed. Rep., 449.

# XXIII.

The most efficacious way of administering this relief is for the Court to appoint a commissioner, or inspectors, to conduct the election, and pass upon all questions that may arise as to the right to vote stock by or in the interest of the Union Pacific Railroad Company, and make report to the Court, as was done in the case of Bartlett vs. Gates, 118 Fed. Rep., 66.

# XXIV.

It was error to refuse to enjoin the Southern Pacific Company from selling or disposing of the stock and lease of the Central Pacific.

The Union Pacific has it within its power through its control of the Southern Pacific, to disconnect the Central Pacific from the Southern Pacific and add it to the Union Pacific, as it has added the Oregon Short Line, and other roads, and in view of the great advantage that would result to "the Union Pacific direct, through line," to add to it the Central Pacific with its important terminals at San Francisco, the probabilities are that after the Central Pacific shall have been fully improved, out of the earnings of the Southern Pacific, if not sooner, it will occur to the Union Pacific directors in control of the Southern Pacific, if they are allowed to continue in control, to sell the stock and lease of the Central Pacific to the Union Pacific, and thus, without warning or opportunity to protest against it, consummate a great wrong upon the Southern Pacific and all its stockholders.

We submit that according to all authority it is not a sufficient, or even permissible defense, to a suit for relief against such a possible wrong at the hands of wrong doers and repugnant trustees, for them to deny that they intend or ever have intended to do any such thing.

It is enough to entitle complainants to an injunction preventing such wrong for them to show, as they have, that such transaction is within the power and interest of the present management of the defendant.

To grant this relief could not work harm to anybody. To refuse, it may work irreparable injury to complainants.

## XXV.

To grant the relief sought in this suit is not a violation of the rule that courts should refrain from interfering with the internal affairs of corporations; for that rule is applicable only when those who have legitimately become stockholders have had an opportunity to be fairly heard in the organization of the corporation and the conduct of its business.

When a rival has gained control and is operating the company primarily in its interest, instead of in the interest of the stockholders of the company, or has power so to

operate it, the courts will intervene to correct the wrong, whether it be actually committed or only threatened; and the accepted mode of administering relief in such cases is by enjoining the vote of such hostile stock.

Sec. 4483. Thompson on Corporations.

Therefore, while stockholders have no right to complain, in *ordinary* cases, of any policy that may be adopted as to improvements, expenditures, dividends, or what not, yet they do have a right so to complain in all cases where hostile interests have illegally come into the control of their company.

The rule is always that they have a right to have their property administered primarily in their interest, and a right to object to whatever interferes with that right.

#### XXVI.

For convenience we have spoken in this brief of Mr. Harriman as the holder of the stock of the Union Pacific, because he holds the principal part of it, and because, except inferentially, the rest of it has not been conclusively identified.

Before the Inspectors or Commissioners to be appointed by the Court, to conduct the election, testimony can be taken to identify all other holdings in the interest of the Union Pacific, and thus fully inform the Court as to what votes of shares should not be received.

Respectfully submitted,

J. B. FORAKER,

Of Counsel for Appellants.

EDWARD LAUTERBACH, AUGUSTUS E. WILLSON, EUGENE TREADWELL,

Of Counsel for Appellants.













